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राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

सोमवार, 04 फरवरी, 2019 / 15 माघ, 1940

हिमाचल प्रदेश सरकार

PLANNING DEPARTMENT

NOTIFICATION

Shimla-2, *the* 8*th November*, 2018

No. PLG.FC (F)1-1/2018 (DPDC) Bilaspur.—In supersession of all previous notifications of this department regarding constitution of District Planning, Development and 20 Point Programme Review Committee of District Bilaspur, the Governor, Himachal Pradesh is pleased to

constitute **District Planning, Development and 20—Point Programme Review Committee** for District **Bilaspur** with immediate effect as under:—

1. Chairman.—Sh. Vipin Singh Parmar, Hon'ble Health & Family Welfare, Medical Education, Ayur., Scie. & Tech. Minister.

2. Non-Official Members:—

Sl. No.	Name & Address
1.	डॉ0 लक्ष्मी दत शर्मा, गांव व डाकघर कोट, घुमारवीं, बिलासपुर
2.	श्री यशवंत सिंह, गांव देहरा, डा0 हटवाड़, घुमारवीं, बिलासपुर
3.	श्री हंस राज शर्मा, गांव दीपर, डा0 हटवाड़, घुमारवीं, बिलासपुर
4.	श्री देवराज रणौत, गांव थडोह, घुमारवीं, बिलासपुर
5.	श्री कर्म चंद जसवाल, गांव टांव भपराल, डा0 भराड़ी, घुमारवीं, बिलासपुर
6.	श्री दलीप ठाकुर, गांव व डाकघर लेहड़ी सरेल, तह0 घुमारवीं, बिलासपुर
7.	श्री कर्म चंद शास्त्री, गांव सुसनाल, डा0 बरोटा, तह0 घुमारवीं, बिलासपुर
8.	श्री मैहर सिंह, गांव व डाकघर डंगार, तह0 घुमारवीं, बिलासपुर
9.	श्री ओंकार चौहान, गांव व डा0 लंघाटा, तहसील घुमारवीं, जिला बिलासपुर
10.	श्री मैहर सिंह, गांव छंदोह, डा0 दधोल, तहसील घुमारवीं, जिला बिलासपुर
11.	श्री सुरेन्द्र रातवां, गांव पालसरा, डा0 कपाहड़ा, तह0 घुमारवीं, बिलासपुर
12.	श्री केशव शर्मा, गांव पालसरा, डा0 कपाहड़ा, तह0 घुमारवीं, बिलासपुर
13.	कै0 जीत राम, गांव सुनाली, डा0 कारलोटी, तह0 घुमारवीं, जिला बिलासपुर
14.	श्री प्रेम सिंह, गांव क्यार, डा0 व तहसील घुमारवीं, बिलासपुर
15.	श्री कर्म चंद चंदेल, नजदीक आई0पी0एच0 कार्यालय घुमारवीं, जिला बिलासपुर
16.	श्री राजेन्द्र चंदेल, गांव रचेडा, डा0 लुहारवीं, तह0 घुमारवीं, बिलासपुर
17.	श्री कर्म सिंह, गांव बदोता, डा0 लुहारवीं, तह0 घुमारवीं, बिलासपुर
18.	श्री नंद लाल, गांव अप्पर गलासीं, डा0 डावला, तह0 घुमारवीं, बिलासपुर
19.	श्री जसबिदंर सिंह, गांव घुमानी, डा0 भगेड़, तह0 घुमारवीं, बिलासपुर
20.	श्री मान सिंह, गांव पनोल, डा0 अमरपुर, तहसील घुमारवीं, बिलासपुर
21.	श्री दुनी चंद शर्मा, गांव व डा0 भराड़ी, तह0 घुमारवीं, बिलासपुर
22.	श्री गिरधारी लाल, गांव व डा0 धोंकोथी, तहसील सदर, बिलासपुर, 70181—17399
23.	श्री जगदीश, प्रधान ग्राम पंचायत कोह मझंवार, तह0 घुमारवीं, बिलासपुर, 98171—97430
24.	श्री संतोष जोशी, रौड़ा सैक्टर नंबर 2, बिलासपुर, जिला बिलासपुर
25.	श्रीमती सुशमा ठाकुर, पूर्व प्रधान, ग्राम पंचायत पतेड, जिला बिलासपुर, 70189—01055
26.	श्री आशीश ढिल्लों, पूर्व प्रधान नगर परिषद् बिलासपुर, जिला बिलासपुर, 98162—00007
27.	श्रीमती रीता देवी, पूर्व जिला परिषद् सदस्य, कंदरौर, जिला बिलासपुर,
28.	श्रीमती उर्मिला कौशल, पंचायत समिति सदस्य, मैहरी काथला, जिला बिलासपुर, 94188—08781
29.	श्री विश्वनाथ, पूर्व पंचायत समिति सदस्य, जबली, जिला बिलासपुर
30.	श्री रूप लाल ठाकुर, पूर्व प्रधान सिहरा, गांव व डा0 सिहरा, जिला बिलासपुर
31.	श्री बाबु राम, उप—प्रधान निचली भटेड़, जिला बिलासपुर
32.	श्री रोहित ठाकुर, हरनोरा, जिला बिलासपुर
33.	कै0 जिंदू राम, पूर्व प्रधान कंदरौर, गांव व डा0 कंदरौर, जिला बिलासपुर
34.	श्री पवन कुमार, पूर्व पंचायत समिति सदस्य, नांनवां, जिला बिलासपुर
35.	श्री सुरिंदर भारती, गांव सिंयुन, डा0 सिंयुण सुरड, तहसील श्रीनैना देवी जी, जिला बिलासपुर
36.	श्री कृष्ण चंदेल, गांव जिओर, डा0 जगातखाना, जिला बिलासपुर
37.	श्री ब्रिज लाल ठाकुर, गांव बलवार, डा0 ब्रह्मपुखर, जिला बिलासपुर
38.	श्री शेर सिंह ठाकुर, गांव मामारू, डा0 नम्होल, जिला बिलासपुर

39.	श्री राकेश महाजन, गांव जमली, डा0 छड़ोल, जिला बिलासपुर
40.	श्री बलबीर सिंह पप्पी, गांव झिंरियां, डा0 टोबा, जिला बिलासपुर
41.	श्री रोशन लाल शर्मा, गांव साईं ब्राह्मना, डा0 खारसी, जिला बिलासपुर
42.	श्री जगत राम ठाकुर, गांव धबेट्टा, डा0 स्वारघाट, जिला बिलासपुर
43.	श्री गोरख सिंह, गांव व डा0 कल्लार, जिला बिलासपुर
44.	श्रीमती मुकेश शर्मा, गांव ग्वांडल, डा0 श्रीनैना देवी जी, जिला बिलासपुर
45.	श्री राकेश गौतम, जिला अध्यक्ष बीजेपी, गांव खरोटा, डा0 बरठीं, तहसील झण्डूता, जिला बिलासपुर।
46.	श्री सुभाष मन्हास, मण्डल बीजेपी अध्यक्ष, गांव बेहना, डा0 झण्डूता, तहसील झण्डूता, जिला बिलासपुर।
47.	श्री अशोक शर्मा, प्रधान ग्राम पंचायत दसलेहडा, गांव व डा0 दसलेहड़ा, तहसील झण्डूता, बिलासपुर।
48.	श्री मनोज लखा, बीडीसी उपाध्यक्ष, गांव व डा0 बरठीं, तहसील झण्डूता, बिलासपुर
49.	श्री राकेश चंदेल, गांव व डाकघर बारी बिलौर, तहसील झण्डूता, जिला बिलासपुर
50.	श्री विजय चंदेल, बीएलए, गांव धरारसनी, डा0 ऋषिकेश, तहसील झण्डूता, जिला बिलासपुर
51.	श्री किशोरी लाल, प्रधान ग्राम पंचायत जंगला, गांव जंगला, डा0 गेहड़वीं, तहसील झण्डूता, जिला बिलासपुर।
52.	श्री नंद लाल चौधरी, उप प्रधान समोह, ग्राम पंचायत समोह, डा0 समोह, तहसील झण्डूता, जिला बिलासपुर।
53.	श्री रमेश धीमान, प्रधान, ग्राम पंचायत भडोलीं, डा0 कलोल, तहसील झण्डूता, जिला बिलासपुर
54.	श्रीमती शीला चंदेल, बीडीसी सदस्य, मलगांव बार्ड, गांव कुठेड़ा, डा0 मलगांव, तहसील झण्डूता, जिला बिलासपुर।
55.	श्रीमती रीना कुमारी, गांव बर्ड, डा0 सुनाहनी, तहसील झण्डूता, जिला बिलासपुर
56.	श्री मोहिन्दर सिंह, सेवानिवृत प्रधानाचार्य, गांव बेरी मिंया, डा0 गेहड़वीं, तहसील झण्डूता, जिला बिलासपुर।
57.	श्री राकेश, पूर्व प्रधान डाहड़, गांव दफर, डा0 डाहड़, तहसील झण्डूता, जिला बिलासपुर
58.	श्री राकेश ठाकुर पुत्र श्री सुख राम, गांव बाला, डा0 डाहड़, तहसील झण्डूता, जिला बिलासपुर
59.	श्री मान सिंह ठाकुर, सेवानिवृत अधिशाषी अभियन्ता, गांव बेहरान, डा0 झण्डूता, तहसील झण्डूता, जिला बिलासपुर।

3. Official Members:

(i) Deputy Commissioner

(ii) All District Level Head of Offices

(iii) Superintending Engineers, PWD/IPH/HPSEBL and Conservator of Forests of the district.

4. Member Secretary.—Addl. DC/ADM (Chief Planning Officer)

5. Functions of the Committee.—The District Planning, Development and 20—Point Programme Review Committee will function as the Policy and Planning Council at the district level to give directions to the Administrative and Technical Personnel besides according approval, overseeing the implementation in terms of monitoring and review in respect of developmental schemes/Programmes and 20—Point Programme to be executed at district level. The Committee will also have the final authority to approve the shelf of schemes/projects under various decentralized planning programmes including Backward Area Sub Plan. The meeting of the Committee will be held on quarterly basis as per date and venue fixed by the Chairman. The

recommendations and suggestions of this committee will be sent to all the concerned Heads of Departments for taking appropriate action with a copy to Planning Department, H.P.

6. Conditions Governing TA/DA.—The Officials Members shall be entitled for TA/DA as admissible under the rules.

By order,
Sd/-
(ANIL KUMAR KHACHI, IAS),
Addl. Chief Secretary (Planning).

PLANNING DEPARTMENT

NOTIFICATION

Shimla-2, *the* 27*th December*, 2018

No. PLG.FC(F)1-1/2018(DPDC) Solan.—In continuation of this department notification of even number dated 11th June, 2018 the Governor, Himachal Pradesh is pleased to nominate following as non-official members of the **District Planning, Development and 20—Point Programme Review Committee** of district **Solan** with immediate effect :—

1. Sh. Nand Lal Pal, Village Kot, P. O. Dumehar, Teshil Arki, Distt. Solan, H.P., Mob. No. 94181-33233.

2. Sh. Parmender Thakur, Pradhan G. P. Chammwal, Tehsil Arki, Distt. Solan, H. P.

By order,
Sd/-
(ANIL KUMAR KHACHI, IAS),
Addl. Chief Secretary (Planning).

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla, the 10th *October*, 2018

No:Shram(A)6-6/2018 (Awards).—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment Government of Himachal Pradesh :—

Sl. No.	Reference/ Application	Title	Section
1.	Ref. 24/2018	Sh. Mohinder Singh *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10

2.	Ref. 187/2017	Sh. Dalip Singh *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
3.	Ref. 188/2017	Sh. Vijay Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
4.	Ref. 72/2018	Sh. Hardeep Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
5.	Ref. 71/2018	Sh. Rajesh Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
6.	Ref. 56/2018	Sh. Balwant Singh *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
7.	Ref. 12/2018	Sh. Vinod Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
8.	Ref. 11/2018	Sh. Suresh Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
9.	Ref. 13/2018	Sh. Amar Lal Verma *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
10.	Ref. 62/2018	Sh. Brikam *V/s* M/s Patel Engineering Ltd. Shogtong, Kinnaur.	10
11.	Ref. 60/2018	Sh. Sant Ram Sharma *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
12.	Ref. 186/2017	Sh. Vinod Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
13.	Ref. 37/2018	Sh. Malkiyat Singh *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
14.	Ref. 38/2018	Sh. Arjun Singh *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
15.	Ref. 43/2018	Sh. Fanu Ram *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
16.	Ref. 41/2018	Sh. Mulak Raj *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
17.	Ref. 40/2018	Sh. Chuni Lal *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
18.	Ref. 149/2017	Sh. Krishan Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
19.	Ref. 147/2017	Sh. Ram Lal *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
20.	Ref. 143/2017	Sh. Panna Lal *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
21.	Ref. 178/2017	Sh. Madan Lal *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
22.	Ref. 179/2017	Sh. Ravinder Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10

23.	Ref. 180/2017	Sh. Rajender Singh *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
24.	Ref. 148/2017	Sh. Raj Kumar *V/s* M/s Patel Engineering Ltd. Shongtong, Kinnaur.	10
25.	Re.f 107/2018	Sh. Mahavir *V/s* M/s Astral Poly Technik Ltd Baddi, Solan.	10
26.	Ref. 75/2018	Sh. Arun Kumar *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
27.	Ref. 81/2018	Sh. Anil Kumar *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
28.	Ref. 79/2018	Sh. Sudesh Pathania *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
29.	Ref. 74/2018	Sh. Manoj Pathania *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
30.	Ref. 73/2018	Sh. Vijay Kumar *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
31.	Ref. 80/2018	Sh. Baldev Raj *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
32.	Ref. 97/2018	Sh. Govinda *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
33.	Ref. 95/2018	Sh. Pradeep Kumar *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
34.	Ref. 82/2018	Sh. Pawan Kumar *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
35.	Ref. 99/2018	Sh. Arun Lal *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
36.	Ref. 96/2018	Sh. Pal Singh *V/s* M/s Astral Poly Technik Ltd. Baddi, Solan.	10
37.	Ref.108/2016	Sh. Joginder Singh *V/s* M/s Ashoka Spanners Pvt. Ltd. Baddi, Solan.	10
38.	Ref. 111/2016	Sh. Raj Kumar *V/s* M/s Ashoka Spanners Pvt. Ltd. Baddi, Solan.	10
39.	Ref. 131/2016	Smt. Chander Kanta Thakur *V/s* Shantialaya Trust Keonthal, Shimla.	10
40.	App. 28/2012	Sh. Fazal Deen *V/s* The XEN, HPSEB Ltd. Nahan.	10
41.	Ref.90/2017	Shobha Ram *V/s* The Director of Horticulture, Shimla.	10
42.	Ref. 91/2017	Smt. Maina Devi *V/s* The Director of Horticulture, Shimla.	10
43.	Ref. 93/2018	Smt. Surjeet Kumari *V/s* M/s Captab Biotech Baddi.	10

44.	Ref. 73/2015	Sh. Prem Thakur *V/s* M/s Himachal Futuristic Communication Ltd. Solan.	10
45.	Ref. 83/2015	Sh. Jai Singh *V/s* Administrator, Bal Bharti Public School, Oach Ghat, solan & Anr.	10

By order,
NISHA SINGH,
Addl. Chief Secretary.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.56 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.56 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.55 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether termination of services of Shri Mohinder Singh s/o Late Shri Chhibar Ram, r/o Village Baggi, P.O Dakhyora, Tehsil Barsar, District Hamirpur, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2.8.2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

6-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.35 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.35 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.35 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Dalip Singh Bisht s/o Shri Dhiraj Ram Bisht, r/o Village Sundha, P.O & Tehsil Chirgaon, District Shimla, H.P. by the General Manager, M/s Patel Engineering Ltd. Shogthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21-9-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 21-9-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 21-9-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
6.8.2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

6-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.40 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.40 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.40 P,M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Vijay Kumar s/o Shri Sohan Singh, r/o V.P.O. Khawangi, Tehsil Kalpa, District Kinnaur, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
6-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

6-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.50 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.50 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.50 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether termination of services of Shri Hardeep Kumar s/o Shri Sewa Ram, r/o Village Lakh Wali Basti, P.O. Patran, Tehsil Patran District Patiala (Punjab), *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
6-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

6-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.55 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.55 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.55 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Rajesh Kumar Thakur s/o Shri Kartar Singh r/o Village Bilpar, P.O. Darkata, Tehsil Dehra, Distrcit Kangra H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
6.8.2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

6-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.45 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.45 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.45 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Balwant Singh s/o Shri Ami Chand r/o Village Gharana, P.O. Gharana, Tehsil Khundian, District Kangra, H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
6-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.50 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.50 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.50 PM. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Vinod Kumar s/o Shri Padam Dass, r/o Village Gasso, P.O. Jhakri, Tehsil Rampur, District Shimla, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising

out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.48 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.48 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.48 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the

reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Suresh Kumar s/o Shri Attar Singh, r/o Village and P.O. Kalpa, Tehsil Kalpa, District Kinnaur, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21-9-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 21-9-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 21-9-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.53 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.53 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.53 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Amar Lal Verma s/o Shri Nand Lal Verma, Village Bhour, P.O. Kanaid, Tehsil Sundernagar, District Mandi, H.P. by the General Manager, M/s Patel Engineering Ltd. Shogthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

28-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.40 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.35 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.35 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of the services of Shri Brikam s/o Shri Sewa Ram, r/o Village Gundi, P.O. Tunan, Tehsil Nirmand, District Kullu, H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
28-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

28-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.35 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.30 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.30 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of the services of Shri Sant Ram Sharma s/o Late Shri jai Krishan Sharma, r/o Village Panjoh, P.O. Kohlari, Tehsil Chamba, District Chamba H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of

Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
28-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

6-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.30 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.30 PM. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.30 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether termination of services of Shri Vinod Kumar Singh s/o Shri Brahma Dutt Singh, r/o Village & P.O. Semri Kala, Tehsil Tarab Ganj, District Gonda (UP) Pin-271402 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
6-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

3-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.56 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.56 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.55 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether dismissal/termination of services of Shri Malkiyat Singh s/o Shri Partap Singh, r/o VPO Ropari, Tehsil Sarkaghat, District Mandi, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 31-3-2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
3-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

3-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.58 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.58 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.58 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether dismissal/termination of services of Shri Arjun Singh s/o Shri Basu Dev, r/o Village Lalsa, P.O. Dansa, Tehsil Rampur, District Shimla, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21-9-2016 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 21-9-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 21-9-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
3-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

3-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 11.04 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.50 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.50 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Fanu Ram s/o Shri Bralu Ram, r/o Village Shah, P.O. Dofda, Tehsil Rampur, District Shimla, H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of

Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
3.8.2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

3-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 11.02 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.40 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.40 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether termination of services of Shri Mulak Raj s/o Shri Mansa Ram, r/o Village & P.O. Sarga, Tehsil Nirmand, District Kullu, H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
3-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

3-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 11.00 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.45 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.45 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Chuni Lal s/o Shri Ses Ram, r/o Village Randal, P.O. Rampur, Tehsil Nirmand, Dsitrict Kullu, H.P. *w.e.f.* 30-3-2016 by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
3.8.2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.45 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.45 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.45 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Krishan Kumar s/o Shri Gopal Chand, r/o Village & P.O. Chansu, Tehsil Sangla, District Kinnaur, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 18-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 18-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 18-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.40 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.40 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.40 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Ram Lal s/o Shri Shanti Lal Negi, r/o Village & P.O Chaura Tehsil Nichar District Kinnaur, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 26-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 26-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the

petitioner have been terminated illegally *w.e.f.* 26-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.37 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.37 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch.

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.37 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether termination of services of Shri Panna Lal s/o Shri Ram Dass, r/o Village Kalangi, P.O. Degerh, Tehsil Ani, District Kullu, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21-9-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 21-9-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 21-9-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.35 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.35 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.35 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Madan Lal s/o Shri Mangat Ram, r/o Village & P.O. Bhoda, Tehsil Palampur, District Kangra, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2.8.2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.32 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.32 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.32 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Ravinder Kumar s/o Shri Govind Ram, r/o Village, Post Office and Tehsil Sangla, District Kinnaur H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 21-9-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 21-9-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 21-9-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.30 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.30 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.30 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of services of Shri Rajender Singh s/o Shri Ram Rattan, r/o Village Mangyari, P.O. Kanthli, Tehsil Chirgaon, District Shimla H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?"**

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of

Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

_____

2-8-2018

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 10.43 A.M. Case called twice but none appeared on behalf of the petitioner. Be awaited.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called again

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 12.43 P.M. Case called again but neither the petitioner nor his counsel appeared before this Court. Be called after lunch.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Case called after lunch

Present: None for the petitioner.
Shri Naresh Sharma, Advocate for respondent.

It is 3.43 P.M. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Shri Niranjan Verma, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether termination of services of Shri Raj Kumar s/o Shri Jai Nand, r/o Village & P.O. Sangla, Tehsil Sangla, District Kinnaur, H.P. by the General Manager, M/s Patel Engineering Ltd. Shongthong Karchham Hydro Electric Project, Reckong Peo, Tehsil Kalpa, Distt. Kinnaur, H.P. *w.e.f.* 30-3-2016, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above ex worker is entitled to from the above employer/management?"

From the aforesaid reference, it is clear that the petitioner has alleged his termination *w.e.f.* 30-3-2016 to be illegal and unjustified but despite having availed various opportunities, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the services of the petitioner have been terminated illegally *w.e.f.* 30-3-2016 without complying with the provisions of Industrial Disputes Act, 1947. Hence, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
2-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.

24-8-2018

Present : None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

As per track consignment report, the notice to the petitioner has been duly served. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor any Advocate appeared on his behalf before this Court despite the fact that the petitioner has been duly served which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether demand of Shri Mahavir s/o Shri Tufani, Village Balu Chapra, P.O. Bharag, Tehsil Bharag, Distt. Devaria, U.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technique Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 62,040/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having been duly served, he has failed to appear before this Court and to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could

go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 62,040/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether demand of Shri Arun Kumar s/o Shri Kehar Singh, Village Jalakh, P.O. Doroh, Tehsil Palampur, Distt. Kangra, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 84,479/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"**

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 84,479/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to

the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether demand of Shri Anil Kumar s/o Late Shri Pawan Kumar, Village & P.O. Sindhian, Tehsil Una, Distt. Una, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 93,811/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"**

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 93,811/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether demand of Shri Sudesh Pathania s/o Shri Ranveer Singh, Village Makrari, P.O. Jalphed, Tehsil Jogindernagar, Distt. Mandi, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 94,388/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"**

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 94,388/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari,

Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether demand of Shri Manoj Pathania s/o Shri Pardhan Singh, Village Makrari, P.O. Jalpehad, Tehsil Joginder Nagar, Distt. Mandi, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 1,06,215/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 1,06,215/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24.8.2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the

reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether demand of Shri Vijay Kumar s/o Shri Dharam Chand, Village Taggi, P.O. Sunara, Tehsil & Distt. Chamba, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 80,493/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14.4.2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 80,493/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(Sushil Kukreja)
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether demand of Shri Baldev Raj s/o Shri Dalip Singh, Village Malher, P.O. Marthun, Tehsil Palampur, Distt. Kangra, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly

Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 93,872/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 93,872/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether demand of Shri Govinda s/o Shri Acchru Ram, Village Bhager, Tehsil & Distt. Bilaspur, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 1,30,722/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite

having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 1,30,722/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether demand of Shri Pradeep Kumar s/o Shri Puran Chand, r/o Village Khaman, P.O. Kohbag, Tehsil & Distt. Shimla, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 1,13,009/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"**

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 1,13,009/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other

alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether demand of Shri Pawan Kumar s/o Shri Bal Krishan, Village Tatri, P.O. Sunara, Tehsil & Distt. Chamba, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 1,01,221/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"**

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 1,01,221/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla.
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari, Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether demand of Shri Arun Lal s/o Shri Madan Paul, V.P.O. Pukhri, Tehsil & Distt. Chamba, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 1,03,982/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"**

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14-4-2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 1,03,982/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla,
Camp at Nalagarh.

24-8-2018

Present: None for the petitioner.
Shri Rajiv Sharma, Advocate for respondent.

Case called repeatedly in pre and post lunch sessions but neither the petitioner nor his Advocate appeared before this Court despite the fact that on the previous date Ms. Deepa Kumari,

Advocate had appeared on behalf of petitioner. For today, the case has been listed for filing of claim petition but despite having availed several opportunities in order to file the claim, none appeared on behalf of the petitioner which clearly shows that at present the petitioner is not interested to pursue his case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

"Whether demand of Shri Pal Singh s/o Shri Nand Lal, Village Dharmi, P.O. Pukhri, Tehsil & Distt. Chamba, H.P. for reinstatement of his services and payment of salary from 14-4-2015 onwards, before the management of M/s Astral Poly Technik Ltd., Village Bated, P.O. Barotiwala, Tehsil Baddi, Distt. Solan-173205, H.P., after receiving full and final amount of Rs. 92,723/- from the above management, is legal and justified? If yes, what relief the above aggrieved workman is entitled to from the said management and if not, its effects?"

From the aforesaid reference, it is clear that the petitioner has demanded for reinstatement of his services and payment of salary from 14.4.2015 onwards before the respondent but despite having availed various opportunities, he has failed to file statement of claim in support of his contention arising out of reference. There is no material on record/file which could go to show that the aforesaid demand of the petitioner is legal and justified. Furthermore, from the reference itself, it is clear that the petitioner has demanded his reinstatement and payment of salary after receiving full & final amount of ₹ 92,723/- from the respondent management meaning thereby that he has already received full & final amount from the respondent as such at present he is not interested to pursue his case. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA),
Presiding Judge,
Labour Court, Shimla
Camp at Nalagarh.

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM**-LABOUR COURT, SHIMLA**

Ref. No. 108 of 2016

Instituted on 2-11-2016

Decided on 9-8-2018

Joginder Singh s/o Shri Prakash Ram, r/o Village and P.O. Bhud, Tehsil Nalagarh, District Solan, H.P. . .*Petitioner.*

Vs

The Employer/Management M/s Ashoka Spanners Pvt. Ltd. Baddi, District, Solan, H.P.

. .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Ms. Manisha Negi, Advocate vice Shri Vipin Bhatia, Advocate.
For respondent : Shri Rajiv Sharma, Advocate.

AWARD

The following reference has been received from appropriate government by this court for adjudication:

> **"Whether termination of service of Shri Joginder Singh s/o Shri Prakash Chand, r/o V.P.O. Bhud, Tehsil Baddi, District Solan, H.P. *w.e.f.* 13-10-2015 by the Employer/Management of M/s Ashoka Spanners Pvt. Limited, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker in entitled to from the above employer/ management?"**

2. Briefly, the case of the petitioner is that he was working as zing operator from 1990 and after that he was promoted as forge shop supervisor from 2-9-1993 and was getting the monthly salary of ₹ 13,000/- and he was doing all types of manual jobs for which he was asked to do and thereafter *w.e.f.* 10-10-2015 the services of the petitioner were terminated illegally without complying with the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) and other labour laws and was not allowed to enter the gate of the industry without any justified cause. It is further stated that the petitioner had completed 240 days as per section 25-B of the Act and neither retrenchment notice was issued to him nor any enquiry was conducted by the respondent and even in lieu of notice no compensation and other benefits were paid to him. That the petitioner had expressed his grief before many authorities and had lodged several complaints in different departments against the conduct of the respondent but no effective result came out from the efforts of the petitioner. That the petitioner is the only earning member in the family and the service was the only source of his income. Against this back-drop it has been prayed that the respondent be directed to compensate the petitioner alongwith back wages, seniority and past service benefits.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objection has been taken qua maintainability as the petitioner was working as supervisor and the managers and supervisors do not fall under the definition of workers. On merits, it has been asserted that the petitioner had resigned in the year 2003 and then again joined in the year 2006 and worked for 23 days and thereafter again left the job and joined in November 2006 and worked for 10 days and again joined the respondent on 1-1-2007 and the present engagement of the petitioner with the respondent is from 1-1-2007. That the provisions of the Act, are not applicable in the present case as due to the resignation of the petitioner and acceptance of the same as well as payment of full & final dues alongwith gratuity by the respondent. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondents.

5. On the pleadings of the parties, the following issues were framed on 11-10-2017:—

(1) Whether the termination of the services of the petitioner by the respondent *w.e.f.* 13-10-2015 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to? . .*OPP.*

(3) Whether the petition is not maintainable as alleged? . .*OPR.*

(4) Relief.

6. I have heard the learned counsel for the parties and also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :—

Issue No.1 No

Issue No.2 Becomes redundant

Issue No.3 No

Relief Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issue No. 1:

8. The learned counsel for the petitioner contended that the services of the petitioner have been terminated illegally without complying with the provisions of the Act as before terminating his services neither any notice was issued to the petitioner nor any enquiry was conducted against him despite the fact that he had completed 240 days in each calendar year.

9. On the other hand, the learned counsel for the respondent contended that since the petitioner had tendered his resignation voluntarily which was accepted by the respondent and even the petitioner had accepted his full and final dues from the respondent company, hence, the termination of his services does not arise at all.

10. To prove his case, the petitioner stepped into the witness box as PW-1 to depose that he had been working as helper with the respondent *w.e.f.* the year 1990 and there were about more than 200 workers working in the company at the time of his termination. He further deposed that no appointment letter was issued to him at the time of his appointment and the respondent company terminated his services without any reason and closed the gate. He also deposed that neither any notice was issued to him nor any compensation was paid to him before his termination. He was drawing salary @ ₹ 6000/- at the time of his appointment after deducting PF and ESI contribution and he is unemployed after his illegal termination. He deposed that he had lodged a complaint regarding his termination against the respondent company before the Prime Minister of India *vide* Mark P-1 and *vide* Mark P-2 to P-3 he had made complaints to SHO Baddi and SDM Nalagarh. In cross-examination, he admitted that letter dated 3-9-1993 Ex. RX has been signed by him at point A encircled in red. He denied that he was working as supervisor. He further denied that on

26-3-2003 he had received his full and final dues after resignation. He admitted that he had written in his own hand in the register of leave with wages Ex. RX-1 that he had received his full & final dues on 26-3-2003 from the respondent. He denied that on 1-1-2007 he again requested to the promoter of the company for rejoining the company and on his request he was again engaged by the company. He denied that he had resigned from his post on 12-10-2015 *vide* Mark R-3. He further denied that he had signed the receipt dated 19.10.2015 Mark R-4. He also denied that he signed vouchers Mark R-5 to Mark R-7. He further denied that he was working as a supervisor from 3-9-1993 to 26-3-2003 and then from 1-1-2007 to 12-10-2015.

11. PW-2 Shri Shyam Sunder, Personal Manager (HR) with the respondent company deposed that he has been working with the respondent since 8-8-1990 and the employees tendered their resignation before the company Director. In cross-examination, he stated that the petitioner had tendered his resignation Ex. RX-4 at his own will and he has taken his full & final dues *vide* receipt Ex. RX-5 and he had also signed vouchers Ex. RX-6 to Ex. RX-8 and leave voucher register Mark R-8. PW-3 Shri Sanjay Kumar, Store Keeper of respondent company deposed that the full and final receipt Ex. RX-5 was prepared in his presence. He further deposed that on 17-2-2016, the petitioner had taken him to the Police Station Baddi and the complaint Mark P-4 has been signed by him at point A encircled in red. In cross examination, he admitted that he had signed Ex. RX-5 at point A encircled in red.

12. On the other hand, the respondent has examined one Shri Shyam Sunder as RW-1 who tendered in evidence his affidavit Ex. RW-1/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence the authority letter Ex. RW-1/B. In cross-examination, he denied that the petitioner was not doing the work of supervisor. He further denied that only the designation of the petitioner was supervisor and he was doing manual work. He also denied that the petitioner had never resigned from service and has not received his full & final dues. He denied that the petitioner was working as an operator. It is correct that the petitioner had completed 240 days in preceding twelve months. He further admitted that no notice and no enquiry was conducted against the petitioner. He denied that the petitioner was illegally terminated.

13. I have closely scrutinized the entire record of the case and after the closure scrutiny thereof it has become clear that the petitioner was earlier working with the respondent and resigned in the year 2003 and had also taken his pending dues from the respondent. Thereafter, on his request he was again given appointment in the year 2006 and he again left after 23 days. Thereafter, on the request of the petitioner, he was again appointed by the respondent in the year 2007 and then the petitioner himself resigned from the job on 12-10-2015 *vide* letter Ex. RX-4. The perusal of the resignation letter Ex. RX-4 shows that the petitioner himself had tendered his resignation on 12-10-2015 and also requested the respondent to accept his resignation and to pay him full & final dues. His resignation was accepted on 12-10-2015 itself *vide* endorsement made on Ex. RX-4 and thereafter he had received his dues by way of vouchers dated 19-10-2015 Ex. RX-6 to Ex. RX-8. The petitioner has also executed a receipt regarding the full and final settlement of the dues from the respondent on 19-10-2015 which is Ex. RX-5 in the presence of PW-3 Shri Sanjay Kumar who stated that the full & final receipt Ex. RX-5 was prepared in his presence and he also admitted in cross-examination that the receipt Ex. RX-5 bears his signatures at point A encircled in red. Therefore, as the petitioner had tendered his resignation voluntarily and had also received his all dues by way of full and final settlement from the respondent company, hence, the relationship of employee and employer between the parties came to an end. **In (1990) 4 SCC 27, J. K. Cotton Spinning and Weaving Mills Company Ltd.** Vs. **State of U.P and others**, the effect of voluntary resignation was considered by the Hon'ble Supreme Court and it was held that when an employee voluntarily tender his resignation, it is an act by which he voluntarily gives up his job and therefore, such a situation is covered by the expression "Voluntary retirement". The relevant portion of the aforesaid judgment is reproduced as under:

"8. In the present case the employee's request contained in the letter of resignation was accepted by the employer and that brought an end to the contract of service. The meaning of term 'resign' as found in the Shorter Oxford Dictionary includes 'retirement'. Therefore, when an employee voluntarily tenders his resignation it is an act by which he voluntarily gives up his job. We are, therefore, of the opinion that such a situation would be covered by the expression 'voluntary retirement' within the meaning of clause (i) of Section 2(s) of the State Act. In Santosh Gupta's case Chinnappa Reddy, J. observed as under:

> **"Voluntary retrenchment of a workman or the retrenchment of the workman on reaching the age of superannuation can hardly be described as termination, by the employer, of the service of a workman".**

(Here the word 'retrenchment' has reference to 'retirement'.)

The above observation clearly supports the view which commends itself to us. We are, therefore, of the opinion that the High Court was not right in concluding that because the employer accepted the resignation offer voluntarily made by the employee, he terminated the service of the employee and such termination, therefore, fell within the expression 'retrenchment' rendering him liable to compensate the employee under section 6-N. We are also of the view that this was a case of 'voluntary retirement' within the meaning of the first exception of section 2(s) and therefore the question of grant of compensation under section 6-N does not arise. We, therefore, cannot allow the view of the High Court to stand".

In the instant case, it is not the case of the petitioner that he had tendered his resignation under duress, coercion or misrepresentation rather he had accepted his full & final dues *vide* vouchers Ex. RX-6 to Ex. RX-8 dated 19-10-2015 and receipt Ex. RX-5. Therefore, if the petitioner had tendered his resignation and accepted his full & final dues, then in the absence of any fraud, coercion or duress being proved, the service of the petitioner comes to an end. In view of the aforesaid decision of the Hon'ble Supreme Court, such a situation would be covered by the expression "voluntary retirement" within the meaning of the exception contained in the clause (a) of section 2(oo) of the Industrial Disputes Act, 1947 and the same will not fall within the definition of the retrenchment.

14. Therefore, in view of the law laid down by the Hon'ble Supreme Court (*supra*), and also in view of entire evidence on record, it cannot be said that the termination of the services of petitioner by the respondent *w.e.f.* 13-10-2015 is illegal and unjustified. Accordingly, issue No.1 is decided in favour of the respondent and against the petitioner.

Issue No. 2 :

15. Since, the petitioner has failed to prove issue No.1, above, this issue becomes redundant.

Issue No. 3 :

16. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief :

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 9th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

Ref. No. 111 of 2016

Instituted on 4-11-2016

Decided on 9-8-2018

Raj Kumar s/o Shri Pyar Chand, r/o Village Desah, P.O. Kopra, Tehsil Barsar, Distt. Hamirpur, H.P. . .*Petitioner*.

Vs

The Employer/Management, M/s Ashoka Spanners Pvt. Ltd., Baddi, District Solan, H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Ms. Manisha Negi, Advocate *vice* Shri Vipin Bhatia, Advocate
For respondent : Shri Rajiv Sharma, Advocate.

AWARD

The following reference has been received from appropriate government by this court for adjudication:

"Whether termination of service of Shri Raj Kumar s/o Shri Pyar Chand, r/o Village Desan, P.O. Kodra, Tehsil Barsar, District Hamirpur H.P. *w.e.f.* 11-11-2015 by the Employer/Management of M/s Ashoka Spanners Pvt. Limited Baddi, Tehsil Baddi, District Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?"

2. Briefly, the case of the petitioner is that he was working as helper from 1997 and after that he was promoted as packing supervisor from 2004 and was getting the monthly salary of

₹ 9,000/- and he was doing all types of manual jobs for which he was asked to do and thereafter *w.e.f.* 18.11.2015 the services of the petitioner were terminated illegally without complying with the mandatory provisions of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) and other labour laws and was not allowed to enter the gate of the industry without any justified cause. It is further stated that the petitioner had completed 240 days as per section 25-B of the Act and neither retrenchment notice was issued to him nor any enquiry was conducted by the respondent and even in lieu of notice no compensation and other benefits were paid to him. That the petitioner had expressed his grief before many authorities and had lodged several complaints in different departments against the conduct of the respondent but no effective result came out from the efforts of the petitioner. That the petitioner is the only earning member in the family and the service was the only source of his income. Against this back-drop it has been prayed that the respondent be directed to compensate the petitioner alongwith back wages, seniority and past service benefits.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objection has been taken qua maintainability as the petitioner was working as supervisor and the managers and supervisors do not fall under the definition of workers. On merits, it has been asserted that the petitioner had left the job with receiving his all pending dues before the year 2004 by his own mistakes and again requested the company to join the same and had again joined in the year 2004 and resigned on 10-11-2015 and the provisions of the Act, are not applicable in the present case. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondents.

5. On the pleadings of the parties, the following issues were framed on 11-10-2017 :—

(1) Whether the termination of the services of the petitioner by the respondent *w.e.f.* 11-11-2015 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to? . .*OPP.*

(3) Whether the petition is not maintainable as alleged? . .*OPR.*

(4) Relief.

6. I have heard the learned counsel for the parties and also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :—

Issue No. 1: No

Issue No. 2: Becomes redundant

Issue No. 3: No

Relief: Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issues No. 1:

8. The learned counsel for the petitioner contended that the services of the petitioner have been terminated illegally without complying with the provisions of the Act as before terminating his services neither any notice was issued to the petitioner nor any enquiry was conducted against him despite the fact that he had completed 240 days in each calendar year.

9. On the other hand, the learned counsel for the respondent contended that since the petitioner had tendered his resignation voluntarily which was accepted by the respondent and even the petitioner had accepted his full and final dues from the respondent company, hence, the termination of his services does not arise at all.

10. To prove his case, the petitioner stepped into the witness box as PW-1 to depose that he had been working as helper with the respondent *w.e.f.* the year 1997 and worked for about 18 years and there were about more than 200 workers working in the company at the time of his termination. He further deposed that no appointment letter was issued to him at the time of his appointment and the respondent company terminated his services without any reason and closed the gate. He also deposed that neither any notice was issued to him nor any compensation was paid to him before his termination. He was drawing salary @ ₹ 1100/- at the time of his appointment and at the time of his termination he was getting salary @ ₹ 9000/- after deducting PF and ESI contribution and he is unemployed after his illegal termination. He deposed that he had lodged a complaint regarding his termination against the respondent company before the Labour Commissioner and to Prime Minister of India *vide* Mark P-1, mark P-2 and Mark P-3 and vide Mark P-4 to P-6 he had made complaints to SHO Baddi and SDM Nalagarh and *vide* Mark P-7 and P-8 he had made complaints to Chief Minister of H.P. In cross-examination, he denied that he had signed letter dated 25-1-2000 for appointment in the factory of respondent. He further denied that he had left the job in the year 2003. He also denied that on 1-10-2004 *vide* mark R-7 he had applied for re-joining. He denied that *vide* letter dated 1-10-2004 Mark R-1, he was appointed as a packing supervisor. He further denied that on 10-11-2015 he had resigned from his post *vide* letter Mark R 2. He also denied that he had received his full & final legal dues *vide* receipt Mark R-3. He denied that he had signed the vouchers Mark R-4 to Mark R-6. He further denied that he had resigned from the job at his own sweet will.

11. PW-2 Shri Sanjay Kumar, Store Keeper of respondent company deposed that when the services of the petitioner were terminated at that time he was present and the petitioner had taken him to the Police Station Baddi and the complaint Mark P-9 has been signed by him at point A encircled in red. In cross-examination, he admitted that he had signed Ex. RX at point A encircled in red. PW-3 Shri Avinash Kumar, Senior Assistant from the office of EPFO deposed that as per the record the EPF contribution of the petitioner has been deposited by the respondent from October 2004 till July 2013 and thereafter only the share of employee *i.e* petitioner has been deposited upto December 2015 and tendered in evidence the certified copy of ledger card Ex. PW-3/A.

12. On the other hand, the respondent has examined one Shri Shyam Sunder as RW-1 who tendered in evidence his affidavit Ex. RW-1/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence the authority letter Ex. RW-1/B, the copy of Bio data form Ex. RW-1/C, the copy of resignation Ex. RW-1/D, receipts Ex. RW- 1/E to Ex. RW-1/G and letter dated 1-10-2004 Ex. RW-1/H. In cross-examination, he denied that the petitioner was not doing the work of supervisor. He further denied that only the designation of the petitioner was supervisor and he was doing manual work. He also denied that the petitioner had never resigned

from service and has not received his full & final dues. He denied that the petitioner was working as an operator. It is correct that the petitioner had completed 240 days in preceding twelve months. He further admitted that no notice and no enquiry was conducted against the petitioner. He denied that the petitioner was illegally terminated.

13. I have closely scrutinized the entire record of the case and after the closure scrutiny thereof it has become clear that the petitioner was earlier working with the respondent till the year 2004 and had also taken his pending dues from the respondent. However, on his request he again joined the respondent company as a packing supervisor as per the letter dated 1-10-2004 Ex. RW-1/H written by the petitioner to the respondent company. Thereafter, the petitioner himself resigned from the job on 10-11-2015 *vide* letter Ex. RW-1/D. The perusal of the resignation letter Ex. RW 1/D shows that the petitioner himself had tendered his resignation on 10-11-2015 due to some domestic problem and also requested the respondent to accept his resignation and to pay him full & final dues. His resignation was accepted on 21-11-2015 *vide* endorsement on Ex. RW-1/D and thereafter he had received his dues by way of vouchers dates 21-11-2015 Ex. RW-1/E to Ex. RW-1/G. The petitioner has also executed a receipt regarding the full and final settlement of the dues from the respondent on 21-11-2015 which is Ex. RX in the presence of PW-2 Shri Sanjay Kumar who admitted in his cross-examination that the receipt Ex. RX bears his signatures at point A encircled in red. Therefore, as the petitioner had tendered his resignation voluntarily and had also received his all dues by way of full and final settlement from the respondent company, hence, the relationship of employer and employee between the parties came to an end. **In (1990) 4 SCC 27, J.K Cotton Spinning and Weaving Mills Company Ltd.** Vs. **State of U.P and others**, the effect of voluntary resignation was considered by the Hon'ble Supreme Court and it was held that when an employee voluntarily tender his resignation, it is an act by which he voluntarily gives up his job and therefore, such a situation is covered by the expression "Voluntary retirement". The relevant portion of the aforesaid judgment is reproduced as under:

> **"8. In the present case the employee's request contained in the letter of resignation was accepted by the employer and that brought an end to the contract of service. The meaning of term 'resign' as found in the Shorter Oxford Dictionary includes 'retirement'. Therefore, when an employee voluntarily tenders his resignation it is an act by which he voluntarily gives up his job. We are, therefore, of the opinion that such a situation would be covered by the expression 'voluntary retirement' within the meaning of clause (i) of Section 2(s) of the State Act. In Santosh Gupta's case Chinnappa Reddy, J. observed as under:**
>
> > **"Voluntary retrenchment of a workman or the retrenchment of the workman on reaching the age of superannuation can hardly be described as termination, by the employer, of the service of a workman".**
>
> **(Here the word 'retrenchment' has reference to 'retirement'.)**
>
> **The above observation clearly supports the view which commends itself to us. We are, therefore, of the opinion that the High Court was not right in concluding that because the employer accepted the resignation offer voluntarily made by the employee, he terminated the service of the employee and such termination, therefore, fell within the expression 'retrenchment' rendering him liable to compensate the employee under section 6-N. We are also of the view that this was a case of 'voluntary retirement' within the meaning of the first exception of section 2(s) and therefore the question of grant of compensation under section-6 N does not arise. We, therefore, cannot allow the view of the High Court to stand".**

In the instant case, it is not the case of the petitioner that he had tendered his resignation under duress, coercion or misrepresentation rather he had accepted his full & final dues *vide*

vouchers Ex. RW-1/E to Ex. RW-1/G and receipt Ex. RX dated 21-11-2015. Therefore, if the petitioner had tendered his resignation and accepted his full & final dues, then in the absence of any fraud, coercion or duress being proved, the service of the petitioner comes to an end. In view of the aforesaid decision of the Hon'ble Supreme Court, such a situation would be covered by the expression "voluntary retirement" within the meaning of the exception contained in the clause (a) of section 2(oo) of the Industrial Disputes Act, 1947 and the same will not fall within the definition of the retrenchment.

14. Therefore, in view of the law laid down by the Hon'ble Supreme Court (supra), and also in view of entire evidence on record, it cannot be said that the termination of the services of petitioner by the respondent *w.e.f.* 11-11-2015 is illegal and unjustified. Accordingly, issue No.1 is decided in favour of the respondent and against the petitioner.

Issue No. 2 :

15. Since, the petitioner has failed to prove issue No.1 above, this issue becomes redundant.

Issue No. 3 :

16. In support of this issue, no evidence has been led by the respondent. However, the petitioner has filed this claim petition pursuant to the reference made by the appropriate government to this Court for adjudication and I find nothing wrong with this petition which is perfectly maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief :

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, the reference stands answered against the petitioner and in favour of the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 9th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

20-3-2018.

Present: Shri Vishal Sharma, Advocate for applicant.
Shri Hoshiyar Kaushal, Advocate *vice* csl. for respondent.

This order shall dispose of an application filed by the applicant under section 151 CPC for setting aside the dismissal order dated 1-7-2017 in reference No. 131/2016 and for the restoration of reference No. 131/2016. It has been averred in the application that due to bonafide mistake, the counsel for the applicant has got noted down wrong date of hearing as 11.7.2017 instead of 1.7.2017 and the non-appearance of the applicant and her counsel was neither willful nor

intentional. On the basis of the above mentioned averments it has been prayed that the application be allowed and the order dated 1.7.2017 be set aside and the reference be restored to its original number.

2. Reply not filed.

3. I have heard the learned counsel for the parties and closely scrutinized the entire record, and from the closer scrutiny thereof it has become clear that on 1-7-2017 none appeared on behalf of the petitioner despite the case having been called several times and this Court had passed an award in the absence of the petitioner and the reference was answered against her. This Court can take the judicial notice of the fact that the aforesaid award was published *vide* notification dated 11-9-2017 issued by the appropriate government. The present application has been filed for restoration of the case on 12-7-2017 *i.e* before the publication of the award. It is by now well settled that this Court has the jurisdiction and power to re-call and set aside an *ex-parte* award if sufficient cause is shown by the party which prevented him from appearing before the Court. **In AIR 1981 SC 606, Grindlays Bank Ltd.** Vs. **The Central Government Industrial Tribunal and others**, it has been held that where a party is prevented from appearing at the hearing due to a sufficient cause then in such circumstances, the Tribunal has not only the power but also the duty to set aside the *ex-parte* award and to direct the matter to be heard afresh. The relevant portion of the aforesaid judgment is reproduced as under:

> **"6. We are of the opinion that the Tribunal had the power to pass the impugned order if it thought fit in the interest of justice. It is true that there is no express provision in the Act or the rules framed there under giving the Tribunal jurisdiction to do so. But it is a well known rule of statutory construction that a Tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions effectively for the purpose of doing justice between the parties. In a case of this nature, we are of the view that the Tribunal should be considered as invested with such incidental or ancillary powers unless there is any indication in the statute to the contrary. We do not find any such statutory prohibition. On the other hand, there are indications to the contrary.**
>
> **7.** ……..
> **8.** ……..……
> **9.** ……..……
>
> **10. When sub-sec. (1) of S. 11 expressly and in clear terms confers power upon the Tribunal to regulate its own procedure, it must necessarily be endowed with all powers which bring about an adjudication of an existing industrial dispute, after affording all the parties an opportunity of a hearing. We are inclined to the view that where a party is prevented from appearing at the hearing due to a sufficient cause, and is faced with an** ex parte **award, it is as if the party is visited with an award without a notice of the proceedings. It is needless to stress that where the Tribunal proceeds to make an award without notice to a party, the award is nothing but a nullity. In such circumstances, the Tribunal has not only the power but also the duty to set aside the** ex-parte **award and to direct the matter to be heard afresh".**
>
> In **Anil Sood** Vs. **Presiding Officer Labour Court-II (2001) 10 SCC 534,** the Labour Court had rejected the recall application on the ground that after making the award, it became functus officio in the matter. The order of the Labour Court was challenged before the High Court but the High Court also took the same view. However, the Hon'ble Supreme Court referred to its earlier decision in Grindlays Bank (*supra*) and held that if there is

sufficient cause shown which prevented a party from appearing, then of the party is visited with an award without a notice which is nullity and therefore the Tribunal will have the power to set aside the *ex-parte* award. The relevant paras of the aforesaid judgment are reproduced as under:

"6. The aspect that the party against whom award is to be made due opportunity to defend has to be given is a matter of procedure and not that of power in sense in which the language is adopted in Section 11. When matters are referred to the tribunal or court they have to be decided objectively and the tribunals/courts have to exercise their discretion in a judicial manner without arbitrariness by following the general principles of law and rules of natural justice.

7. The power to proceed ex-parte **is available under Rule 22 of the Central Rules which also includes the power to inquire whether or not there was sufficient cause for the absence of a party at the hearing, and if there is sufficient cause shown which prevented a party from appearing, then of the party is visited with an award without a notice which is nullity and therefore the Tribunal will have no jurisdiction to proceed and consequently, it must necessarily have power to set aside the** ex-parte **award.**

8. It this be the position in law, both the High Court and The Tribunal (sic Labour Court) fell into an error in stating that the Labour Court had become functus officio after making the award though ex-parte. **We set aside the order made and the award passed by the Labour Court and affirmed by the High Court in this regard, in view of the fact that learned counsel for the respondent conceded that application filed by the appellant be allowed, set aside the** ex parte **award and restore the reference. To decide the matter afresh, the parties shall appear before the Labour Court on 11-12-2000 to take further directions as regards the proceedings. As the matter is very old, it would be appropriate for the Labour Court to dispose of this reference as expeditiously as possible but not later than six months from today".**

Thus, from the aforesaid decisions of the Hon'ble Supreme Court, it has become clear that this Court has the power to set aside the *ex-parte* award if there is sufficient cause shown by the party which prevented him from appearing before the Court. In the present case it has been categorically stated by the learned counsel for the applicant that on 17-6-2017, he has noted down the wrong date of hearing as 11-7-2017 instead of 1-7-2017 and his non-appearance before this Court was neither intentional nor wilful. Therefore, in the opinion of this Court, sufficient cause has been shown by the learned counsel for the applicant which prevented him from appearing before this Court on 1-7-2017.

4. Therefore, in view of the facts and circumstances of the present case, the application filed by the applicant is allowed. The award dated 1-7-2017 is set aside and the reference is ordered to be restored to its original number. The application after completion be tagged with the main case file.

Announced:
20-3-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
H.P. Industrial Tribunal-cum-
Labour Court, Shimla.

20-3-2018.

Present: Shri Vishal Sahrma, Advocate for petitioner.
Shri Hoshiyar Kaushal, Advocate for respondent.

Vide my separate order passed in Application No. 67 of 2017, the award dated 1-7-2017 is set aside and the present reference is ordered to be restored to its original number.

Now, list the case for filing of rejoinder on 16-4-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
H.P. Industrial Tribunal-cum-Labour Court, Shimla.

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

App. No. : 28 of 2012

Instituted on: 20-7-2012

Decided on: 14-8-2018

Fazal Deen s/o Shri Gulam Deen r/o Village Dhangwala, P.O. Kaulanwala Bhood, Tehsil Nahan, District Sirmaur, H.P. . .*Petitioner*.

Vs.

The Executive Engineer, HPSEB Ltd., Division Nahan, District Sirmaur, H.P.. .*Respondent.*

Claim petition under Industrial Disputes Act, 1947

For petitioner : Ms. Yogita Dutta, Advocate.

For respondent : Shri Rajinder, Advocate *vice* Shri Ramakant Sharma, Advocate.

ORDER

Facts in brief as narrated in the application are that the petitioner was engaged as T-mate/Beldar by the respondent on daily wage basis in the year, 1987 and continued as such upto December 1995 when his services were dis-engaged/retrenched without observing the mandatory provisions of Industrial Disputes Act, 1947 (hereinafter referred as to Act) and without following the principles of last come first go as the persons junior to the petitioner are still working and even fresh recruitments have also been made by the respondents after the disengagement of the petitioner without observing the mandatory provisions of section 25-H of the Act. It is further averred that after the disengagement, the petitioner was not gainfully employed anywhere. Against this back drop it has been prayed that the petitioner be reinstated in service with all benefits including back-wages.

2. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken that the petition is not tenable in the eyes of law, petition is hopelessly time barred and hit by law of limitation, estoppel etc. On merits, it has been asserted that initially the petitioner was engaged as daily waged on 21-10-1994 on muster-roll basis and he worked as such till 31-3-1995 for a period of 99 days and he had not completed 240 days in any calendar year, hence, there is a delay of 17 years in raising the industrial dispute. It is further asserted that the petitioner had left the job at his own and did not turn up and since the petitioner has not completed 240 days of continuous service, hence, he is not entitled to the notice or one month salary. The respondent prayed for the dismissal of the petition.

3. By filing rejoinder, the petitioner has reiterated his allegations by denying those of the respondent.

4. On the pleadings of the parties, the following issues were framed by this Court on 5-4-2018 :—

(1) Whether the termination of the services of applicant by the respondent during December 1995 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to? . .*OPP.*

(3) Whether the petition is not maintainable as alleged? . .*OPR.*

(4) Relief.

5. I have heard the learned counsel for the parties and also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under:—

Issue No. 1: No

Issue No. 2: Becomes redundant

Issue No. 3: Yes

Relief : Application dismissed per operative part of order

Reasons for findings

Issues Nos.1 & 3:

7. Being interlinked and correlated both these issues are taken up together for discussion and decision.

8. The learned counsel for the petitioner contended that the services of the petitioner had been terminated by the respondent illegally without serving him any notice as required under section 25-F of the Act especially when he had completed more than 240 days in each calendar year. She further contended that the junior persons to the petitioner are still working with the

respondent and fresh workers have been engaged in violation of the provisions of section 25-G and 25-H of the Act.

9. On the other hand, learned counsel for the respondent contended that the claim of the petitioner is highly belated and stale. He further contended that the services of the petitioner have never been terminated by the respondent who had left the job at his own without any intimation to the respondent Board. He also contended that the petitioner had not completed 240 days in any calendar year and no junior to the petitioner had been retained and no fresh hands had been engaged by the respondent, hence, he is not entitled to any relief.

10. To prove issue No.1 the petitioner stepped into the witness box as PW-1 to depose that he was engaged as beldar by the Board in the year 1987 and he had worked continuously upto the year 1995 and had completed 240 days in each calendar year. He further deposed that he was terminated from service in December 1995 without issuance of any notice and without payment of any compensation and after his termination he raised the demand notice before the Labour-*cum* Conciliation Officer Nahan but no decision was taken by the Labour–*cum*-Conciliation Officer on his demand notice and thereafter the present application was moved by him in March 2012. He also stated that he is unemployed from the date of his termination. In cross-examination he denied that he was engaged by the Board on 21-10-1994. He further denied that he had worked upto 21-3-1995. He also denied that he had not completed 240 days in any calendar year. He denied that the Board had not retained any junior person. He further denied that the present dispute was raised by him after a period of 17 years.

11. PW-2 Shri Jitender Singh deposed that he was engaged as beldar by the Board in the year 1994 and his services were terminated on 31-3-1995. He further deposed that the petitioner was senior to him in service and he was re-instated in service upon the orders of the Court. He also stated that Lal Singh and Jai Singh who were juniors to the petitioner have been retained by the Board upon the orders of the Court. In cross-examination, he denied that no junior persons to the petitioner have been retained by the Board.

12. Shri Manish Kumar, Junior Office Assistant of respondent appeared into the witness box as PW-3 to depose that the record *w.e.f.* the year 1987 till the year 1993 is not available in their office and tendered in evidence the copies of muster-rolls of the petitioner Ex. PW-3/A to Ex. PW-3/E. In cross-examination, he admitted that as per the record the petitioner joined the Board on 7-11-1994 and worked till 31-3-1995 for 99 days. He further admitted that the petitioner had not completed 240 days in any calendar year.

13. On the other hand, the respondent has examined one Shri Satish Kumar, Assistant Engineer who deposed that the petitioner was engaged as beldar on daily wage on 21-10-1994 and he worked as such till 31-3-1995 for 99 days and no junior to him was retained by the Board. In cross-examination, he denied that the petitioner had worked for all the working days in the month of October 1994. He further denied that the record pertaining to the petitioner *w.e.f.* year 1987 to the year 1994 has been deliberately withheld by the Board. He also denied that the Board had terminated the services of the petitioner without any reason. He denied that he petitioner had completed 240 days in each calendar year.

14. I have closely scrutinized the entire evidence, on record, and from the closer scrutiny thereof, it has become clear that the petitioner had worked with the respondent *w.e.f.* 7-11-1994 to 31-3-1995 which fact is evident from the muster-rolls of the petitioner Ex. PW-3/A to Ex. PW-3/E. No doubt, the case of the petitioner is that the respondent had engaged him as daily waged beldar in the year 1987 but to this effect no evidence has been led by him which could go to show that he was engaged in the year 1987. From the perusal of muster-rolls Ex. RW-3/A to Ex. RW-3/E it is also clear that the petitioner had not completed 240 days in any calendar year and in twelve

calendar months preceding his termination. It is also clear from the record that the present application has been filed by the petitioner on 20-7-2012 *i.e* after a gap of more than 17 years. Now, the question which arises for consideration before this Court is as to whether the application is stale and highly belated. The learned counsel for the petitioner contended that under the Industrial Disputes, no limitation is prescribed and the provision of Article 137 of the Limitation Act, 1963 is not applicable to the proceedings under the Act and the relief under the Industrial Disputes Act cannot be denied to the workman merely on the ground of delay. Therefore, the position of law in respect of a stale claim is required to be seen.

15. **In (2013) 14 SCC 543, titled as Assistant Engineer Rajasthan State Agriculture Marketing Board, Sub-Division Kota** Vs. **Mohan Lal**, it has been held by the Hon'ble Apex Court that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising Industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

> "19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in Gitam Singh that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed."

16. **In Assistant Executive Engineer, Karnataka** Vs. **Shivalinga reported in (2002) 10 SCC 167**, the services of the employee were terminated on 25-5-1985 and he approached the Labour Officer on 17-3-1995 and then the reference was made by the Government to the Labour Court. There was a delay of more than nine years in approaching the Labour Officer. In para 6 of the aforesaid judgment, the Hon'ble Apex Court has held as under:

> "Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

Thus, it has been held that in case there is a serious dispute or doubt in such relationship and the records of the employer become relevant, the long delay would come in the way of maintenance of the same.

17. **In Haryana State Coop. Land Development Bank** Vs. **Neelam reported in (2005) 5 SCC 91,** the employee was discontinued from service *w.e.f.* 30-5-1986 and he raised the demand notice on 30-9-1993 and thereafter the reference was sent to the Labour court by the appropriate government. The Labour Court passed an order answering the reference against the employee holding that the claim was belated. Thereafter, a writ petition was filed before the Hon'ble High Court which was allowed and the employee was directed to be reinstated in service with continuity of service but without back-wages. The Hon'ble Supreme Court set aside the judgment of the High Court and restored the judgment of the Labour Court as a result the reference stood answered against the workman. The relevant portion of the aforesaid judgment is reproduced as under:

> 13. "In Ajaib Singh (*supra*), the management did not raise any plea of delay. The Court observed that had such plea been raised, the workman would have been in a position to show the circumstances which prevented him in approaching the Court at an earlier stage or even to satisfy the Court that such a plea was not sustainable after the reference was made by the Government. In that case, the Labour Court granted the relief, but the same was denied to the workman only by the High Court. The Court referred to the purport and object of enacting Industrial Disputes Act only with a view to find out as to whether the provisions of the Article 137 of the Schedule appended to the Limitation Act, 1963 are applicable or not. Although, the Court cannot import a period of limitation when the statute does not prescribe the same, as was observed in Ajaib Singh (*supra*), but it does not mean that irrespective of facts and circumstances of each case, a stale claim must be entertained by the appropriate Government while making a reference or in a case where such reference is made the workman would be entitled to the relief at the hands of the Labour Court."
>
> 14. "The decision of Ajaib Singh (supra) must be held to have been rendered in the fact situation obtaining therein and no ratio of universal application can be culled out therefrom. A decision, as is well-known, is an authority of what it decides and not what can logically be deduced therefrom Bharat Forge Co. Ltd. *Vs.* Uttam Manohar Nakate, JT 2005 (1) SC 303], and Kalyan Chandra Sarkar *vs.* Rajesh Ranjan @ Pappu Yadav & Anr. para 42."
>
> 15. In Balbir Singh *vs.* Punjab Roadways and Another [(2001) 1 SCC 133], as regard Ajaib Singh (*supra*), this Court observed :
>
> > 5. The learned counsel for the petitioner strenuously urged that the Tribunal committed error in denying relief to the workman merely on the ground of delay. The learned counsel submitted that in industrial dispute delay should not be taken as a ground for denying relief to the workman if the order/orders under challenge are found to be unsustainable in law. He placed reliance on the decision of this Court in the case of Ajaib Singh *v.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. [(1999) 6 SCC 82 : 1999 SCC (L&S) 1054 : JT (1999) 3 SC 38].
> >
> > 6. "We have carefully considered the contentions raised by the learned counsel for the petitioner. We have also perused the aforementioned decision. We do not find that any general principle as contended by the learned counsel for the petitioner has been laid down in that decision. The decision was rendered on the facts and circumstances of the case, particularly the fact that the plea of delay was not taken by the management in the proceeding before the Tribunal. In the case on hand the plea of delay was raised and was accepted by the Tribunal. Therefore, the decision cited is of little help in the present case. Whether relief to the workman should be denied on the ground of delay or it should be appropriately moulded is at the discretion of the Tribunal depending on the facts and circumstances of the case. No doubt the discretion is to be exercised judicially."

16. "Yet again in Assistant Executive Engineer, Karnataka *vs.* Shivalinga [(2002) 10 SCC 167], a Bench of this Court observed :

"6. Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the cause of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh *vs.* Sirhind Coop. Marketing-*cum*-Processing Service Society Ltd. (1999) 6 SCC 82 and Sapan Kumar Pandit *vs.* U.P. SEB (2001) 6 SCC 222 to contend that there is no period of limitation prescribed under the Industrial Disputes Act to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part-payment of back wages. It is no doubt true that in appropriate cases, as held by this Court in the aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal, as the case may be, where there is no such dispute to relationship between the parties as employer and employee. In cases where there is a serious dispute, or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the two decisions relied upon by the learned counsel have no application to the case on hand."

17. "In Nedungadi Bank Ltd. (*supra*), a Bench of this Court, where S. Saghir Ahmad was a member [His Lordship was also a member in Ajaib Singh (*supra*), opined :

"6. Law does not prescribe any time-limit for the appropriate Government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service. At the time reference was made no industrial dispute existed or could be even said to have been apprehended. A dispute which is stale could not be the subject-matter of reference under Section 10 of the Act. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. When the matter has become final, it appears to us to be rather incongruous that the reference be made under Section 10 of the Act in the circumstances like the present one. In fact it could be said that there was no dispute pending at the time when the reference in question was made." (Emphasis supplied).

18. In (2006) 5 SCC 433 in case titled as UP State Road Transport Corporation Vs. **Babu Ram**, the termination was dated 19-9-1983 and the reference was made on 29-8-1998. The Labour Court has held the termination as un-valid without considering the question of delay. The Hon'ble High Court dismissed the writ petition. The Hon'ble Supreme Court has held that no material was placed on record to show that the dispute was raised within reasonable time and the employee was not responsible for delay. The relevant portion of the aforesaid judgment is reproduced as under:

"10. It is to be noted that the High Court has very cryptically disposed of the writ petition. The workman has not placed any material to show that it had raised dispute within a reasonable time, and/or that he was not responsible for delayed decision if any in the conciliation proceedings. It was for him to show that the dispute was raised within a reasonable time and that he was not responsible for any delay. The High Court, on a

hypothetical basis has assumed that the dispute might have been raised promptly but delayed by the State Government and he cannot be penalized for delay in finalizing the conciliation proceedings and the reference. But neither the Labour Court nor the High Court has even noted the factual position. The conclusion was based on surmises and conjectures."

19. In Assistant Engineer, CAD Kota Vs. **Dhan Kunwar reported in (2006) 5 SCC 481**, the delay was of about eight years in raising the dispute. The Labour Court granted reinstatement with 30 % back-wages. The writ petition and writ appeal filed by the employer were dismissed. However, the Hon'ble Apex Court set aside the judgments of Hon'ble High Court and the Labour Court and held that no relief should have been granted. The relevant portion of the aforesaid judgment is reproduced herein under:

"9. In the background of what has been stated above, the Labour Court should not have granted relief. Unfortunately, learned Single Judge and the Division Bench did not consider the issues in their proper perspective and arrived at abrupt conclusions without even indicating justifiable reasons……..

20. In **UP State Road Transport Corporation** Vs **Ram Singh and another (2008) 17 SCC 627**, the termination was dated 15-3-1973 and the reference was dated 15-6-1986 and there was a delay of about 13 years in making the reference. The reference was dismissed on the ground of delay. The relevant portion of the aforesaid judgment reads as under:

" 7. We are of the view that in the facts and circumstances of the case, the High Court erred in not setting aside the award of the Labour Court. Apart from the unacceptable manner in which the appellant was denied the opportunity of participating in the proceedings, including being debarred from cross-examining the respondent, the Labour Court could not have entertained the industrial dispute given the enormous delay. This Court has in several decisions has held that while delay cannot by itself be sufficient reason to reject an industrial dispute, never the less the delay cannot be un-reasonable. The decision in Prakash Chander Sahu has reaffirmed this principal. The reason for diligence and promptness lies in the fact that the records pertaining to an employee might have been destroyed and it would be difficult to obtain witnesses who would be competent to give evidence so many years later if the Labour Court wishes to hold a further enquiry into the matter. In the present case, the delay of 13 years is unreasonable. The mere fact that the respondent was making repeated representations would not justify his raising the issue before the Labour Court after 13 years. In any event, the last representation was made in 1983 and the industrial dispute was admittedly raised in 1986. The lack of diligence on the part of the respondent is apparent."

21. In a recent judgment of our **Hon'ble High Court delivered in CWP No. 1912 of 2016 titled as Bego Devi** Versus **State of HP and others decided on 26-10-2016**, it has been held as under:

"9. **It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position".**

22. Keeping in view the aforesaid principles laid down by the Hon'ble Apex Court, the facts of this case are required to be seen. The services of the petitioner were stated to be terminated on 31-3-1995 and he filed the present application on 20-7-2012 *i.e* after a period of more than 17

years. But the petitioner has failed to explain the delay of 17 years in filing the present application as no evidence in this respect has been placed on record by the petitioner. The present application has been filed directly before this Court by the petitioner. At this stage, it would be relevant to reproduce section 2-A of the Act which reads as under:

> "2A. **Dismissal, etc., of an individual workman to be deemed to be an industrial dispute**.
>
> (1) Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.
>
> (2) ……
>
> (3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1)."

The perusal of sub section (3) of section 2-A of the Act reveals that limitation is prescribed for moving the application under section 2-A of the Act which shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service. In the present case as observed earlier according to the petitioner himself his services were terminated *w.e.f.* March 1995. However, the present application has been filed by him on 20-7-2012 after more than 17 years from the date of his termination *i.e* much after the period of limitation as prescribed under sub-section (3) of section 2A of the Act. Therefore, the present application is hopelessly barred by limitation and is not maintainable and liable to be dismissed on the ground of delay in making the application.

23. On merits, from the perusal of evidence led by the parties, the petitioner has failed to prove on record that he had worked for 240 days in preceding twelve months prior to his termination. In ***2009 (120) FLR 1007 incase titled as Relip Nagarpalika*** *Vs.* ***Babuji Gabhaji Thakore and others***, the Hon'ble Supreme Court has held as under:

> ***"The burden of proof lies on the workman to show that he had worked continuously for 240 days for the preceding one year and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer."***

In ***AIR 2006 S.C. 110 case titled as Surindernagar District Panchayat*** V/s ***Dayabhai Amar Singh,*** the Hon'ble Supreme Court has held that:—

> ***"Incase workman claims to have worked for more than 10 years as daily wager. Apart from oral evidence workman has not produced any evidence to prove fact that he has worked for 240 days. No proof of receipt of salary or wages or any record or order in that regard was produced: no co-worker was examined; muster-roll produced by employer has not been contradicted. Workman has failed to discharge his burden that he was in employment for 240 days during preceding 12 months of date of termination of his service. Workman not entitled for protection of Section 25-F before his service was terminated."***

A bare perusal of the extract of the judgment re-produced, hereinabove, shows that the burden to prove completion of 240 days service lies on the workman and this burden is discharged on workman stepping in the witness box and adducing cogent evidence. The petitioner has failed to prove on record that he had put in 240 days in twelve calendar months preceding his termination. There is no iota of evidence which could go to show that the petitioner had completed 240 working days in twelve calendar months preceding his termination. Hence, the case of the petitioner does not fall under section 25-F of the Industrial Disputes Act, 1947 and as such no protection of section 25-F can be granted to the petitioner.

24. The learned counsel for the petitioner next contended that at the time of the termination of the petitioner, the respondent had retained his juniors and had engaged fresh hands who are still working as such the respondent had violated the principles of "last come first go". However, no satisfactory evidence has been led by the petitioner to this effect. Though, PW-2 deposed that he (PW-2) as well as Lal Singh, Jai Singh were juniors to the petitioner and they have been retained upon the orders of the Court, however, except for the bald statement of PW-2 there is no other evidence on record to this effect. No appointment letter has been produced by PW-2 in order to prove the date of his appointment and the date of appointment of Lal Singh and Jai Singh by the respondent. Similarly, no Court orders have been produced by PW-2 in order to prove that they were retained by the respondent upon the orders of the Court. Therefore, in the absence of any documentary evidence on record the oral statement of PW-2 cannot be relied upon. Moreover, as observed earlier, the petitioner had filed the present application after a period of 17 years as such there is no question of consideration of equal treatment with the junior persons who have allegedly been retained/engaged. To take this view, I am fortified with the judgment of our own **Hon'ble High Court in CWP No. 4515/2012 decided on 13.6.2012, titled as Suraj Mani** Vs. **HPSEB** wherein it has been held that the petitioners cannot claim equal treatment after about two decades with the juniors who have allegedly been retained. The petitioner who slept for a long period of 17 years is not entitled to claim any relief on the ground of equal treatment. Since, the application has been proved to be stale and belated as such the protection of sections 25-G and 25-H of the Act cannot be granted to the petitioner.

25. Thus, keeping in view the above cited rulings and the material fact that the petitioner had filed the present application after a lapse of about 17 years as such no relief can be granted to him. Hence, it cannot be said that the termination of the services of the petitioner is illegal and unjustified. Consequently, both these issues are answered against the petitioner.

Issue No.2 :

26. Since, the petitioner has failed to prove issue No.1, above, this issue becomes redundant.

Relief :

As a sequel to my findings on the aforesaid issues, the application filed by the petitioner fails and is hereby dismissed. Let a copy of this award/order be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open Court today on this 14th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

Ref. No. 90 of 2017

Instituted on 7-6-2017

Decided on 9-8-2018

Shobha Ram s/o Shri Kesru, r/o Village Jagohi, P.O. Devdhar, Tehsil Gohar, District Mandi, H.P. . .*Petitioner.*

Vs

The Director of Horticulture, Horticulture Department, Nav Bahar, Shimla-171002 H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Varun Rana, Advocate *vice* Shri Amar Deep Singh, Advocate.

For respondent : Shri Mohinder Singh, ADA.

AWARD

The following reference has been sent by the appropriate government for adjudication:

"Whether termination of services of Shri Shobha Ram s/o Shri Kesru, r/o Village Jagohi, P.O. Devdhar, Tehsil Gohar, District Mandi, H.P. who was employed as safai karamchari on contract basis by the Director of Horticulture, Nav Bahar, Shimla-2 H.P. *w.e.f.* 1.4.2016 allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?"

2. In nutshell the case of the petitioner is that on 1-1-2003, he was engaged as safai karamchari on contract wages by the respondent and he was doing his duties diligently and honestly without any complaint regarding his work from anyone in the department but to the utter dismay of the petitioner, his services were orally terminated on 31-3-2016 without any notice and against the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as to Act). It is further stated that the respondent is indulged in unfair labour practice and always had a vindictive attitude towards the petitioner and since 2014 the respondent always tried to dispense with the services of the petitioner without any cause. The petitioner since 2003 tried his level best to give his best performance during the course of his engagement but instead of getting any admonition from the respondent, his services were dispensed with on 31-3-2016. It is also asserted that the petitioner is a very poor man and he has no other source of income and he served in the office of respondent for 12 years continuously and had completed 240 days in each calendar year and at the age of 57 years he had been thrown out from service without any notice and without paying compensation as per the provisions of the Act. That after the completion of 8 years of service, the petitioner is entitled for regularization but instead of regularizing his services, he had been thrown out from the service and other persons who are much junior to the petitioner have been retained/re-engaged in

violation of the principles of first come last go. Against this back-drop it has been prayed that the respondent be directed to re-engage the petitioner *w.e.f.* 31-3-2016 with all consequential benefits and to consider her case for appointment from the date of completion of 8 years of service.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken qua maintainability, that the petitioner does not fall within the ambit of Act etc. On merits, it has been asserted that the petitioner was initially allotted the work on contract basis for one year *vide* letter dated 4-6-2002 for cleanliness of outer premises of the respondent being lowest one in the comparative statement of the quotations *i.e* @ ₹ 1600/- per month and he had been working from year to year basis right from 2002 and during the year 2015 the petitioner was allotted work on contract basis by calling the quotations from different interested party/persons *vide* letter dated 7-3-2015 and the petitioner being the lowest one in the comparative statement, the work was allotted to him for one year *w.e.f.* 1-4-2015 to 31-3-2016 and the contract was valid upto 31-3-2016 and on completion of the contract, no work was allotted to the petitioner and as such he has no claim after 31-3-2016. It is further asserted that the petitioner himself has executed the affidavit on 7-4-2015 swearing therein that he has been allotted the work for the year 2015-16 on contract basis and he shall not be entitled for government service in lieu of the work allotted to him and since the work was allotted to the petitioner on contract basis from time to time and he used to work for 2-3 hours in a day, hence, the question of completing 240 days in each calendar year, regulations of his services and retaining his juniors does not arise and he cannot invoke this provision for his own benefit. With the aforesaid averments the respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reiterated the allegations as made in the claim petition by denying those of the respondent.

5. On the pleadings of the parties, the following issues were framed on 14-12-2017 :—

(1) Whether the termination of the services of the petitioner by the respondent *w.e.f.* 1-4-2016 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .*OPP.*

(3) Whether the petition is not maintainable as alleged? . .*OPR.*

(4) Relief.

6. I have heard the learned counsel for the parties and also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :—

Issue No. 1: No

Issue No. 2: Becomes redundant

Issue No. 3: No

Relief: Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issues No. 1 :

8. The learned counsel for the petitioner contended that being a safai karamchari the services of the petitioner had been terminated illegally without complying with the provisions of the Act especially when the petitioner had completed 240 days in each calendar year. He further contended after the termination of the services of the petitioner, the respondent had retained juniors and engaged new persons in violation of the provisions of sections 25-G & 25-H of the Act.

9. On the other hand, the learned ADA for respondent contended that the respondent had allotted the work of cleanliness of outer premises of respondent office to the petitioner by inviting tenders and the quotations of the petitioner being lowest one in the comparative statement of quotations, the work was allotted to him on contract basis which was being renewed on year to year basis and his services stood automatically came to an end on the completion of contract, hence, there is no violation of any provision of the Act.

10. To prove his case, the petitioner stepped into the witness box as PW-1 to depose that he was working as safai karamchari on contract basis with the respondent department from the year, 2003 to the year 2016 and thereafter his services were terminated on 31-3-2016 without issuance of any notice and compensation. He further deposed that he had completed 240 days in each calendar year and after his termination he made a representation to the department for his re-engagement but he was not re-instated. In cross-examination, he denied that his services were never engaged by the respondent. He admitted that in the year 2002, he got contract for cleanliness of outer and indoor premises of the respondent department. He denied that his working hours were only for 2-3 hours. He admitted that his contract was renewed on every year on bid basis. He further admitted that in the year 2015 he again got contract of the said work and the contract was from 1-4-2015 to 31-3-2016. He admitted that he had submitted the affidavit Mark RX to the department. He further admitted that he was never engaged by the department as safai karamchari and he was given contract for doing the work of cleanliness.

11. On the other hand, the respondent has examined one Shri Ranjeet Singh, Clerk as RW 1 who tendered in evidence letter dated 4-6-2002 Ex. RW-1/A, comparative statement dated 3-5-2002 Ex. RW-1/B, tender notice dated 7-3-2015 Ex. RW-1/C, proceedings dated 24-3-2015 Ex. RW-1/D, comparative statement dated 24-3-2015 Ex. RW-1/E, letter dated 27-3-2015 Ex. RW-1/F and copy of affidavit Ex. RW-1/G.

12. RW-2 Shri Chander Mohan, Superintendent Grade-1 tendered in evidence his affidavit Ex. RW-2/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence the authority letter Ex. RW-2/B. In cross-examination, he denied that the petitioner had been working as sweeper from the year 2003 till the year 2016. He admitted that the contract of cleaning the premises for every year was being granted in favour of the petitioner from the year 2003 till the year 2016. He denied that the affidavit was obtained from the petitioner under pressure. He further denied that the petitioner had completed 240 days in each calendar year.

13. I have closely scrutinized the entire evidence on record, and from the closer scrutiny thereof, it has become clear that the petitioner was initially allotted the work on contract basis by the respondent for a period of one year for the year 2002-2003 *w.e.f.* 4-6-2002 *vide* letter Ex. RW-1/A for cleanliness of the premises of the Directorate @ ₹ 1600/- per month as his quotation was lowest in the comparative statement of quotations Ex. RW-1/B. RW-2 specifically deposed in his evidence by way of affidavit Ex. RW-2/A that the petitioner had been working from year to year basis right from the year 2002 on contract basis being the lowest one in quotation and comparative

list. He further deposed that during the year 2015 the petitioner was allotted the work on contract *vide* letter dated 7-3-2015 by calling the quotations from interested parties and since the quotation of the petitioner was the lowest one, he was allotted the work of cleanliness @ 5000/- per month for one year commencing from 1-4-2015 to 31-3-2016 and on the completion of the contract the petitioner was not allotted any work due to non-availability of the funds with the department. RW-2 was cross-examined at length however nothing favourable could be elicited from his lengthy cross-examination. The petitioner had also executed an affidavit Ex. RW-1/G on 7-4-2015 wherein he had stated that he had been allotted the work for the year 2015-16 on contract basis and he shall not be entitled for government service in lieu of the work assigned to him. Even, the petitioner has admitted in his cross-examination that he had given the aforesaid affidavit. He further admitted that in the year 2002 he got contract for cleanliness of outer and indoor premises of the respondent department since his bid was the lowest. He also admitted that the contract was renewed on every year on bid basis. He further admitted that in the year 2015 he again got contract of the said work and the contract was from 1-4-2015 to 31-3-2016. The petitioner was under an obligation to lead cogent and satisfactory evidence on record that he was engaged as safai karamchari on daily wage basis in the year 2002 and had worked continuously till 31-3-2016. However, except for his bald statement no evidence has been led by the petitioner in this respect. Rather, the evidence on record particularly the admission of petitioner himself shows that the petitioner was allotted the work of cleanliness on contract on year to year basis and the last contract was *w.e.f.* 1-4-2015 to 31-3-2016 and thereafter on the completion of the contract no work was allotted to the petitioner. Thus, it cannot be said that the petitioner was engaged as safai karamchari by the respondent and his services were terminated on 31-3-2016 as such the question of applicability of sections 25-F, 25-G and 25-H of the Act does not arise at all.

14. Therefore, in view of my foregoing discussion and also in the absence of any cogent and satisfactory evidence on record it cannot be said that the termination of the services of the petitioner by the respondent *w.e.f.* 1-4-2016 without complying with the provisions of the Act is illegal and unjustified. Accordingly, this issue is decided in favour of the respondent and against the petitioner.

Issue No. 2 :

15. Since, the petitioner has failed to prove issue No.1 above, this issue becomes redundant.

Issue No. 3 :

16. In support of this issue, no evidence has been led by the respondent which could go to show as to how the present petition is not maintainable especially when the petitioner has filed the present petition pursuant to the reference sent by the appropriate government to this Court for adjudication and I find nothing wrong with the present petition which is perfectly maintainable. Therefore, in the absence of any evidence on record, it cannot be said the petition is not maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief :

As a sequel to my above discussion and findings on issues No.1 to 3, the claim of the petitioner fails and is hereby dismissed with the result the reference is answered in favour of the respondent and against the petitioner. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 9th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

Ref. No. 91 of 2017

Instituted on 7-6-2017

Decided on 9-8-2018

Maina Devi w/o Shri Shobha Ram, r/o Village Jagohi, P.O. Devdhar, Tehsil Gohar, District Mandi. H.P. . .*Petitioner.*

Vs.

The Director of Horticulture, Horticulture Department, Nav Bahar, Shimla-171002 H.P. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri Varun Rana, Advocate *vice* Shri Amar Deep Singh, Advocate.
For respondent : Shri Mohinder Singh, ADA.

AWARD

The following reference has been sent by the appropriate government for adjudication:

"Whether termination of services of Smt. Maina Devi w/o Shri Shobha Ram, r/o Village Jagohi, P.O. Devdhar, Tehsil Gohar, District Mandi, H.P. who was employed as safai karamchari on contract basis by the Director of Horticulture, Nav Bahar, Shimla 2 H.P. *w.e.f.* 1.4.2016 allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer?"

2. In nutshell the case of the petitioner is that on 1-1-1999, she was engaged as safai karamchari on contract wages by the respondent and she was doing her duties diligently and honestly without any complaint regarding her work from anyone in the department but to the utter dismay of the petitioner, her services were orally terminated on 31-3-2016 without any notice and against the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as to Act). It is further stated that the respondent is indulged in unfair labour practice and always had a vindictive attitude towards the petitioner and since 2015 the respondent always tried to dispense with the services of the petitioner without any cause. The petitioner since 1999 tried her level best to give

her best performance during the course of her engagement but instead of getting any admonition from the respondent, her services were dispensed with on 31-3-2016. It is also asserted that the petitioner is a very poor lady and she has no other source of income and she served in the office of respondent for 16 years continuously and had completed 240 days in each calendar year and at the age of 55 years she had been thrown out from service without any notice and without paying compensation as per the provisions of the Act. That after the completion of 8 years of service, the petitioner is entitled for regularization but instead of regularizing her services, she had been thrown out from the service and other persons who are much junior to the petitioner have been retained/re-engaged in violation of the principles of first come last go. Against this back-drop it has been prayed that the respondent be directed to re-engage the petitioner *w.e.f.* 31-3-2016 with all consequential benefits and to consider her case for appointment from the date of completion of 8 years of service.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken qua maintainability, that the petitioner does not fall within the ambit of Act etc. On merits, it has been asserted that the petitioner was initially allotted the work on contract basis for one year *vide* letter dated 26-3-2002 for cleanliness of outer premises of the respondent being lowest one in the comparative statement of the quotations *i.e* @ ₹ 3500/- per month and she had been working from year to year basis right from 1999 and during the year 2015 the petitioner was allotted work on contract basis by calling the quotations from different interested party/persons *vide* letter dated 7-3-2015 and the petitioner being the lowest one in the comparative statement, the work was allotted to her for one year *w.e.f.* 1-4-2015 to 31-3-2016 and the contract was valid upto 31-3-2016 and on completion of the contract no work was allotted to the petitioner and as such she has no claim after 31-3-2016. It is further asserted that the petitioner herself has executed the affidavit on 7-4-2015 swearing therein that she has been allotted the work for the year 2015-16 on contract basis and she shall not be entitled for government service in *lieu* of the work allotted to her and since the work was allotted to the petitioner on contract basis from time to time and she used to work for 2-3 hours in a day, hence, the question of completing 240 days in each calendar year, regulations of her services and retaining her juniors does not arise and she cannot invoke this provision for her own benefit. With the aforesaid averments the respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reiterated the allegations as made in the claim petition by denying those of the respondent.

5. On the pleadings of the parties, the following issues were framed on 14-12-2017:—

(1) Whether the termination of the services of the petitioner by the respondent *w.e.f.* 1-4-2016 without complying with the provisions of the Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled? . .*OPP.*

(3) Whether the petition is not maintainable as alleged? . .*OPR.*

(4) Relief.

6. I have heard the learned counsel for the parties and also gone through the record of the case.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :

Issue No.1 : No

Issue No.2 : Becomes redundant

Issue No.3 : No

Relief : Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issues No.1.

8. The learned counsel for the petitioner contended that being a safai karamchari the services of the petitioner had been terminated illegally without complying with the provisions of the Act especially when the petitioner had completed 240 days in each calendar year. He further contended after the termination of the services of the petitioner, the respondent had retained juniors and engaged new persons in violation of the provisions of sections 25-G & 25-H of the Act.

9. On the other hand, the learned ADA for respondent contended that the respondent had allotted the work of cleanliness of outer premises of respondent office to the petitioner by inviting tenders and the quotation of the petitioner being lowest one in the comparative statement of quotations, the work was allotted to her on contract basis which was being renewed on year to year basis and her services stood automatically came to an end on the completion of contract, hence, there is no violation of any provision of the Act.

10. To prove her case, the petitioner stepped into the witness box as PW-1 to depose that she was engaged as safai karamchari by the respondent in the year 1998 for 15 days and thereafter she was engaged in the year 1999 and she working continuously till 30-3-2016 and then her services were terminated on 31-3-2016 without issuance of any notice and compensation. She further deposed that she had completed 240 days in each calendar year and after her termination she made a representation to the department for her re-engagement but she was not re-instated. In cross-examination, she denied that she was never engaged as a safai karmachari by the respondent. She further denied that she was working on contract basis from the year 1999. She also denied that in the year 2002, she got contract for doing cleanliness work in the department. She denied that her contract was being renewed on year to year basis from the year 2002. She further denied that she received the contract in the year 2015 for a period of one year as her bid was lowest. She admitted that she gave the affidavit Mark RX. She denied that her work was for 2-3 hours. She further denied that she had never completed 240 days in any calendar year.

11. On the other hand, the respondent has examined one Shri Ranjeet Singh, Clerk as RW-1 who tendered in evidence letter dated 26-3-2002 Ex. RW-1/A, comparative statement dated 25-3-2002 Ex. RW-1/B, tender notice dated 7-3-2015 Ex. RW-1/C, proceedings dated 24-3-2015 Ex. RW-1/D, comparative statement dated 24-3-2015 Ex. RW-1/E, letter dated 27-3-2015 Ex. RW-1/F and copy of affidavit Ex. RW-1/G.

12. RW-2 Shri Chander Mohan, Superintendent Grade-1 tendered in evidence his affidavit Ex. RW-2/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence the authority letter Ex. RW-2/B. In cross-examination, he denied that the petitioner had been working as sweeper from the year 1998 till the year 2016. He further denied that the petitioner was working as regular sweeper in the department since the year 1999. He also denied that the petitioner had completed 240 days in each calendar year. He admitted that the contract of the

petitioner was not renewed due to non-availability of funds. He denied that they have not renewed the contract of the petitioner as the cleanliness work was outsourced in the year 2016.

13. I have closely scrutinized the entire evidence on record, and from the closer scrutiny thereof, it has become clear that the petitioner was initially allotted the work on contract basis by the respondent for a period of one year for the year 2002-2003 *w.e.f.* 1-4-2002 *vide* letter Ex. RW-1/A for cleanliness of the premises of the Directorate @ ₹ 3500/- per month as her quotation was lowest in the comparative statement of quotations Ex. RW-1/B. RW-2 specifically deposed in his evidence by way of affidavit Ex. RW-2/A that the petitioner had been working from year to year basis right from the year 1999 on contract basis being the lowest one in the quotation and comparative list. He further deposed that during the year 2015 the petitioner was allotted the work on contract *vide* letter dated 27-3-2015 by calling the quotations from interested parties and since the quotation of the petitioner was the lowest one, she was allotted the work of cleanliness @ 4000/- per month for one year commencing from 1-4-2015 to 31-3-2016 and on the completion of the contract the petitioner was not allotted any work due to non-availability of the funds with the department. RW-2 was cross-examined at length however nothing favourable could be elicited from his lengthy cross-examination. The petitioner had also executed an affidavit Ex. RW-1/G on 7-4-2015 wherein she had stated that she had been allotted the work for the year 2015-16 on contract basis and she shall not be entitled for government service in lieu of the work assigned to her. Even, she admitted in her cross-examination that she had given the aforesaid affidavit. Though, she had stated that the affidavit was obtained by the then Director from her under pressure. However, to this effect no evidence has been led by the petitioner. The petitioner was under an obligation to lead cogent and satisfactory evidence on record that she was engaged as safai karamchari on daily wages basis in the year 1999 and had worked continuously till 31-3-2016. However, except for her bald statement, no evidence has been led by the petitioner in this respect. Rather, the evidence on record shows that the petitioner was allotted the work of cleanliness on contract on year to year basis and the last contract was *w.e.f.* 1-4-2015 to 31-3-2016 and thereafter on the completion of the contract no work was allotted to the petitioner. Thus, it cannot be said that the petitioner was engaged as safai karamchari by the respondent and her services were terminated on 31-3-2016 as such the question of applicability of sections 25-F, 25-G and 25-H of the Act does not arise at all.

14. Therefore, in view of my foregoing discussion and also in the absence of any cogent and satisfactory evidence on record it cannot be said that the termination of the services of the petitioner by the respondent *w.e.f.* 1.4.2016 without complying with the provisions of the Act is illegal and unjustified. Accordingly, this issue is decided in favour of the respondent and against the petitioner.

Issue No. 2 :

15. Since, the petitioner has failed to prove issue No.1 above, this issue becomes redundant.

Issue No.3 :

16. In support of this issue, no evidence has been led by the respondent which could go to show as to how the present petition is not maintainable especially when the petitioner has filed the present petition pursuant to the reference sent by the appropriate government to this Court for adjudication and I find nothing wrong with the present petition which is perfectly maintainable. Therefore, in the absence of any evidence on record, it cannot be said the petition is not maintainable. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief :

As a sequel to my above discussion and findings on issues No. 1 to 3, the claim of the petitioner fails and is hereby dismissed with the result the reference is answered in favour of the respondent and against the petitioner. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 9th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

24-8-2018

Present: None.

As per track consignment report and as per AD received back, the notice issued to the petitioner has been duly served. Case called repeatedly in pre and post lunch sessions but neither the petitioner nor any Advocate on her behalf has appeared before this Court despite the fact that the petitioner has been duly served which clearly shows that at present the petitioner is not interested to pursue her case arising out of the reference sent by the appropriate government to this Court for adjudication. Therefore, this Court is left with no other alternative but to decide the reference on the basis of the material whatsoever is available on the file. The following reference has been sent by the appropriate government for adjudication to this Court:

> **"Whether termination of the services of Smt. Surjeet Kumari w/o Shri Dharam Pal, r/o Village Illewal, P.O. Golthai, Tehsil Shri Naina Devi Ji, Distt. Bilaspur, H.P. C/o Shri Satish Kumar, President, H.P. AITUC, Distt. Committee Solan H.Q. House No. 276, Phase III, Housing Board, Baddi, Distt. Solan *w.e.f.* 09-10-2015 by the management of M/s Captab, Biotech Unit-II, Plot No. 125, EPIP Phase-1, Jharmajri, Tehsil Baddi, Distt. Solan, H.P., without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what relief including reinstatement, amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above management?"**

From the aforesaid reference, it is clear that the petitioner has alleged her termination *w.e.f.* 9-10-2015 to be illegal and unjustified but despite having been duly served, she has failed to appear before this Court and to file statement of claim in support of her contention arising out of reference. There is no material on record/file which could go to show that the termination of the services of the petitioner *w.e.f.* 9-10-2015 is illegal and unjustified. Hence, in the absence of any material on record, this Court is left with no other alternative but to answer the reference against the petitioner and as such the reference is answered against the petitioner and the award is passed accordingly. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
24-8-2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Labour Court, Shimla,
Camp at Nalagarh.

IN THE COURT OF SUSHIL KUKREJA, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

Ref. No. 73 of 2015

Instituted on 1-10-2015

Decided on 20-8-2018

Prem Thakur w/o Shri Birbal Thakur, Friends Colony, Chambaghat, Solan, Distt. Solan, H.P. through Shri Anoop Kumar, General Secretary, Himachal Futuristic Communications Ltd. Mazdoor Sangh Chambaghat, Solan through Shri J.C. Bhardwaj, President, HP-AITUC, HQ. Saproon, Solan, H.P. . .*Petitioner*.

Vs

M/s Himachal Futuristic Communications Limited (wireline/wireless division), Electronics Complex, Chambaghat, Solan-173213, H.P. through its Factory Manager . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C Bhardwaj, AR.
For respondent : Shri Rahul Mahajan, Advocate.

AWARD

The following reference has been received from appropriate government by this court for adjudication:

> **"Whether demand raised by Shri Anoop Kumar, General Secretary, Himachal Futuristic Communications Ltd. Mazdoor Sangh, Chambaghat, Solan, H.P. *vide* demand notice dated 17-7-2014 (copy enclosed) before the Factory Manager/Employer M/s Himachal Futuristic Communications Ltd., Chambaghat, Distt. Solan, H.P. regarding withdrawal of retirement orders No. HFCL/HRD/2014, dated 31-1-2014 in respect of Smt. Prem Thakur, Employees Code No. 6020, is legal and justified? If yes, what relief including reinstatement, back wages and other service benefits the aggrieved workman is entitled to from the above management?"**

2. Smt. Prem Thakur (hereinafter referred as to petitioner) has filed the present claim petition through Shri Anoop Kumar, General Secretary, Himachal Futuristic Communications Ltd. Mazdoor Sangh Chambaghat, Solan. Facts in brief as narrated in the claim petition are that Anoop Kumar is the elected General Secretary of the Himachal Futuristic Communications Mazdoor Sangh which is a registered trade union under the Trade Union Act, 1926 in the respondent establishment, hence, the union is competent to sue the respondent establishment before this Court. That on 31-1-2014 the petitioner was ordered to be retired from the post of senior technician wrongfully on misconceived basis as 3-1-1956 which was taken into the account as her date of birth for the purpose of superannuation by the respondent which is wrong and misconceived date of birth whereas the actual date of birth of petitioner is 1-1-1959 which was not taken into the consideration while retiring her from the services on 31-1-2014 despite the fact that she had submitted her birth certificate authenticated from the Registrar of birth and death, Gram Panchayat Baloh, Tehsil Bhoranj, District Hamirpur, H.P. It is further stated that after the pre-mature order of retirement on 31-1-2014 the petitioner approached the union of which she was a member and the union took her

matter in the general house of the union and as such the union had raised a demand notice under section 2 (k) of the Industrial Disputes Act, 1947 (hereinafter referred as to Act) on 17-7-2014 wherein the union had apprized the management that the petitioner had been retired from the service at the age of 55 years whereas as per the certified standing orders of the company and as per the Model Standing Orders, the age of retirement is 58 years. That on 30-3-2012 the respondent management wrote a letter to petitioner wherein it has been stated that there is no record of her date of birth and she was asked to submit proof of her date of birth upon which on 3-4-2012 the petitioner submitted her voter ID as proof of her date of birth and thereafter another letter was written by the management asking again therein for submission of proof of her date of birth and then the petitioner submitted a letter on 4-10-2013 alongwith an affidavit wherein she had declared her date of birth on 1-1-1959 in support of Voter Card but the management did not accept the affidavit submitted by the petitioner and wrote a letter on 11-12-2013 that she will be retired on 3-1-2014 as her date of birth is still 3-1-1956. That the respondent management has alleged in letter dated 12-11-2013 that her date of birth as per EPF nomination form and ESI declaration form is 3-1-1956 but the same was never filled by the petitioner herself and were contrarily filled by the HR department of the company and her all representations and requests were turned down by the management in a very arbitrary manner. It is also stated that the wrongful order of retirement on 31-1-2014 be deemed as retrenchment from service in view of the course of events which espoused this dispute in question and this retirement is arbitrary and imaginary. That since the petitioner had submitted exclusive proof as the birth certificate from the Registrar of birth and death and as such she is entitled to remain in the service for 3 years more till she turns 58 years old. Against this backdrop it has been prayed that the impugned order of retirement dated 31-1-2014 be set aside and the petitioner be reinstated in the service of respondent company since the date of her wrongful superannuation *i.e.* 31-1-2014 with full back-wages, seniority, continuity and other consequential service benefits.

3. By filing reply, the respondent contested the claim of the petitioner wherein preliminary objections have been taken *qua* maintainability as the retirement/superannuation does not amount to termination and there exists no employee employer relationship between the respondent and the petitioner from the date of her superannuation. On merits, it has been asserted that the petitioner had retired/superannuated after attaining the age of 58 years in terms of certified standing orders of the respondent company and as per the terms of appointment letter and the retirement/superannuation does not amount to retrenchment and on retirement the relationship of employer and employee comes to an end. It is denied that the date of birth of the petitioner is 1-1-1959. That the petitioner was rightly retired on 31-1-2014 as she had attained the age of 58 years and her date of birth is 3-1-1956 and at the time of submitting of application form, she herself had provided the date of birth and declaration submitted under the EPF scheme and Employees Pension Scheme. It is further asserted that the demand notice raised by the union was duly replied by the management and there is no violation of provisions of section 25-N of the Act. That the respondent had paid all the legal dues towards full & final settlement to the petitioner on her retirement and even the petitioner had utilized the entire amount remitted to her on her superannuation and the demand notice raised by the union is bad in law as the dispute raised by the union qua the petitioner does not fall within the definition of section 2-k of the Act. That the petitioner herself had provided the date of birth certificate as 3-1-1956 and she attained the age of 58 years on 31-1-2014, hence, she was rightly retired from service at the age of 58 years. The respondent prayed for the dismissal of the claim petition.

4. By filing rejoinder, the petitioner reaffirmed her allegations by denying those of the respondent.

5. On the pleadings of the parties, the following issues were framed on 9-11-2016 :—

(1) Whether the demand raised by petitioner union *vide* demand notice dated 17-7-2014 regarding withdrawal of retirement orders No. HFCL/HRD/012014 dated 31-1-2014 in respect of Smt. Prem Thakur is illegal and unjustified as alleged? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief of service benefits the petitioner is entitled to? . .*OPP.*

(3) Whether the present petition is neither competent nor maintainable as alleged? . .*OPR.*

(4) Relief.

6. I have heard the AR for the petitioner and learned counsel for the respondent and also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :—

Issue No. 1: No

Issue No. 2: Becomes redundant

Issue No. 3: No

Relief : Reference answered in favour of the respondent and against the petitioner per operative part of award.

Reasons for findings

Issue No. 1 :

8. The AR for the petitioner contended that the petitioner was wrongly ordered to be retired from service by the respondent on 31-1-2014 at the age of 55 years on misconceived basis and the respondent had wrongly recorded her date of birth as 3-1-1956 whereas as per the birth certificate, the actual date of birth of the petitioner is 1-1-1959 which was not taken into consideration while retiring her. He further contended that as per certified standing orders of the company the retirement age of employee is 58 years but the petitioner was ordered to be retired on attaining the age of 55 years. He also contended that wrongful retirement of the petitioner amounts of illegal retrenchment without compliance of section 25-N of the Act.

9. On the other hand, the learned counsel for the respondent contended that the petitioner was rightly given retirement on attaining the age of superannuation *i.e.* 58 years in terms of appointment letter and certified standing orders of the company as in the nomination and declaration form submitted under the EPF Scheme 1952 and Employees Pension Scheme 1995, the petitioner herself had submitted her date of birth as 3-1-1956, hence, she is not entitled to any relief.

10. To prove her case, the petitioner stepped into the witness box as PW-1 and tendered in evidence her affidavit Ex. PW-1/A wherein she reiterated almost all the averments as stated in the claim petition. She also tendered in evidence the copy of her birth certificate Ex. PW-1/B, copy of demand notice Ex. PW-1/C, copy of letter dated 30-3-2012 Mark X, copy of voter Identity Card Ex. PW-1/D, copy of letter dated 30-8-2013 Ex. PW-1/E, copy of letter dated 4-10-2013 alongwith copy of affidavit Ex. PW-1/F, copy of letter dated 11-12-2013 Mark X-2, letter dated 14-1-2014

Mark X-3 and copy of experience certificate Ex. PW-1/G. In cross-examination, she admitted that appointment letter Ex. R-1 was issued to her by the respondent and she had signed it at point A encircled in red. She further admitted that she had signed the form Ex. R-2 which contains all the particulars. She also admitted that she had signed the nomination and declaration form under PF Act Ex. R-3. She further admitted that the birth certificate Ex. PW-1/B has been issued on 5-5-2014. She denied that her date of birth is 3-1-1956 as per her service record. She admitted that after her retirement on 31-1-2014, she was paid an amount of ₹ 1,30,181/-. She denied that she was given retirement at the age of 58 years as per the terms and conditions of appointment letter and certified standing orders of the company.

11. PW-2 Shri Anup Kumar Sharma, General Secretary of Union deposed that the petitioner is the member of their union and the union had raised a demand notice Ex. PW-1/C under section 2-k of the Act. In cross-examination, he admitted that Mark X-1 is the certified standing orders of the company. He further admitted that the respondent company had filed reply to the demand notice raised by the union.

12. On the other hand, the respondent has examined one Shri G. S. Rana, Assistant Manager as RW-1 who tendered in evidence his affidavit Ex. RW-1/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence the authority letter Ex. RW-1/B and Board resolution Mark RX-1. In cross-examination, he denied that the column regarding date of birth encircled in red at point A of Ex. R-3 has been filled later on. He admitted that the letter Mark X had been written by their officer. He admitted that Mark RX does not bear the signatures of petitioner as well as the employer. He denied that the employment form Ex. R-2 does not belong to the petitioner. He further denied that the signature of the petitioner on Ex. R-2 has been fabricated. He also denied that the petitioner was retired from service two years prior to her attaining the age of superannuation.

13. I have closely scrutinized the entire evidence on record and after the closure scrutiny thereof it has become clear that the petitioner got retired from service on 31-1-2014. The perusal of the record further reveals that at the time of joining service with the respondent the petitioner herself had submitted her date of birth as 3-1-1956 in the employment form Ex. R-2. In the declaration and nomination form submitted under the Employees Provident Funds and Employees Pension Scheme Ex. R-3 also, she submitted her date of birth as 3-1-1956. In cross-examination the petitioner had admitted her signatures on the employment form Ex. R-2 and also on the nomination and declaration form under EPF Scheme Ex. R-3. In the identity certificate issued by the ESI Mark X also, the date of birth of the petitioner is recorded as 3-1-1956. At this stage it would be relevant to take note of clause 5 sub clause ii (b) and clause 41 of the Certified Standing Orders of the respondent company Mark X-1 which read as under:

> "5 ii (b) **The date of birth of a workman once entered in the service record of the establishment shall be the evidence of his age in relation to all matters pertaining to his service including fixation of the date of his retirement from the service of the establishment. All formalities regarding recording of the date of birth shall be finalized within three months of the appointment of workman.**
>
> **41. Superannuation: The age of retirement on superannuation of a workman/employee shall be such as may be agreed upon between the employer and the workman under an agreement or as specified in a settlement or award which is binding on both the workman and the employer, where, there is no such agreed age, retirement or superannuation shall be on completion of fifty eight years of age by the workman."**

From the perusal of the aforesaid clauses of the certified standing orders, it has become clear that the date of birth of a workman once entered in the service record of the establishment shall be the evidence of his age in relation to all matters pertaining to his service including fixation of the date of his retirement and all formalities regarding recording of the date of birth shall be finalized within three months of the appointment of workman and in the absence of any settlement/ agreement the age of retirement or superannuation of a workman shall be on completion of 58 years. As per the case of the respondent, the petitioner was rightly given retirement on 31-1-2014 on her attaining the age of superannuation on completion of 58 years. However, the case of the petitioner is that since her date of birth is 1-1-1959, therefore, she was given pre-mature retirement. However, as seen from the clause 5(ii)(b) of the Certified Standing Orders of the respondent company, all the formalities with respect to the recording of date of birth has to be finalized within a period of three months from the date of appointment of a workman. But in the present case admittedly the petitioner had sought correction of her date of birth in the year, 2012 *i.e.* at the fag end of her carrier. The Hon'ble Apex Court in (**1993) 2 SCC 162 titled as Union of India** Vs. **Harnam Singh** has held that the correction in date of birth cannot be allowed in view of the unexplained and inordinate delay. The relevant portion of the aforesaid judgment is reproduced as under:

> **"7. ……..The date of birth entered in the service records of a civil servant is, thus of utmost importance for the reason that right to continue in service stands decided by its entry in the service record. A Government servant who has declared his age at the initial stage of the employment is, of course, not precluded from making a request later on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of the irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the Government servant must do so without any unreasonable delay……..……**
>
> **A Government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire. Unless altered, his date of birth as recorded would determine his date of superannuation even if it amounts to abridging his right to continue in service on the basis of his actual age".**

From the aforesaid judgment of Hon'ble Supreme Court it is clear that a Government servant who makes an application for correction of date of birth beyond the time so fixed cannot claim as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous.

14. **Similarly, in (1994) 6 SCC 302, titled as State of T.N** Vs. **T.V. Venugopalan,** it has been held by the Hon'ble Supreme Court that the inordinate delay in making the application is itself a ground for rejecting the correction of date of birth. The relevant portion of the aforesaid judgment is reproduced as under:

> "7……...…… **This Court has, repeatedly, been holding that the inordinate delay in making the application is itself a ground for rejecting the correction of date of birth. The government servant having declared his date of birth as entered in the service register to be correct, would not be permitted at the fag end of**

his service career to raise a dispute as regards the correctness of the entries in service register. It is common phenomenon that just before superannuation, an application would be made to the Tribunal or court just to gain time to continue in service and the Tribunal or courts are unfortunately unduly liberal in entertaining and allowing the government employees or public employees to remain in office, which is adding an impetus to resort to the fabrication of the record and place reliance thereon and seek the authority to correct it".

In CWP No. 6378 of 2010-G titled as Ram Singh *Vs.* **Indian Railways and ors. decided on 5.3.2013,** our Hon'ble High Court has held that the person who wakes up from deep slumber is not entitled to correction of date of his birth as recorded in his service record. It has further been observed that it is well settled that a prayer for correction of the date of birth should not be dealt by the High Courts/Tribunals keeping in view the interest of the public servant concerned alone, but also chain of reactions, more particularly, the prospectus of others waiting from years together for their promotion. The relevant portion of the aforesaid judgment is reproduced as under:

"**20. It is again well settled that a prayer for correction of the date of birth should not be dealt by the High Courts/Tribunals keeping in view the interest of the public servant concerned alone, but also chain of reactions, more particularly, the prospectus of others waiting from years together for their promotion. The observation qua this aspect of the matter made by the apex court in R. Kirubakaran's case,** supra **reads as follows:**

"7. An application for correction of the date of birth should not be dealt with by the Courts, Tribunal or the High Court keeping in view only the public servant concerned. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose the promotion for ever. Cases are not unknown when a person accepts appointment keeping in view the date of retirement of his immediate senior. According to us, this is an important aspect, which cannot be lost sight of by the Court or the Tribunal while examining the grievance of a public servant in respect of correction of his date of birth".

In the present case also the date of birth of the petitioner entered in her service record is 3-1-1956 as per the employment form Ex. R-2 and declaration and nomination form under EPF Scheme Ex. R-3 signed by the petitioner herself. As observed earlier, the certified standing orders of the respondent company provides that all formalities regarding the recording of the date of birth shall be finalized within three months of the appointment of workman. Therefore, the petitioner was required to make representation for correction of her date of birth in service record within a period of three months from the date of her appointment. However, she had not taken any steps within the prescribed period for correction of her date of birth. Rather she had sought correction of her date of birth at the fag end of her carrier. Admittedly, the birth certificate Ex. PW-1/B has been issued on 5-5-2014 and the petitioner has not led any evidence with respect to the fact that on what basis her date of birth was recorded in the aforesaid certificate Ex. PW-1/B. The onus to prove that her date of birth is wrongly entered in the service record was upon the petitioner, however, she has failed to discharge the same. Moreover, it cannot be believed that the petitioner came to know about her date of birth recorded wrongly in her service record only on 30-3-2012 when she received

letter dated 30-3-2012 Mark X from the respondent company. Therefore, the petitioner who remained silent for a period of more than 20 years is not entitled for correction of her date of birth at the fag end of her carrier as per law laid down by the Hon'ble Apex Court and also by our own Hon'ble High Court (*supra*).

15. In view of my foregoing discussion and in view of law laid down (*supra*) it cannot be said that the demand raised by the union *vide* demand notice dated 17-7-2014 regarding withdrawal of retirement orders no. HFCL/HRD/01-2014 dated 31-1-2014 in respect of Smt. Prem Thakur is illegal and unjustified. Accordingly, this issue is decided in favour of the respondent and against the petitioner.

Issue No. 2:

16. Since, the petitioner has failed to prove issue No.1 above, this issue becomes redundant.

Issue No. 3:

17. The learned counsel for the respondent submitted that since the petitioner had retired from service as such she ceased to be a "workman" hence the present petition is not maintainable as the retirement/superannuation does not amount to retrenchment/termination because on retirement/ superannuation the employee and employer relationship between the parties comes to an end and therefore no industrial dispute can be raised. However, this contention of the learned counsel for the respondent is devoid of any force because as per section 2 (k) of the Act, the "Industrial Dispute means any dispute or difference between employees and employers, or between employers and workmen; or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person. In the present case, it is not in dispute that the petitioner was the employee of respondent and that she had retired from service. She had raised the present dispute with regard to the correction of her date of birth in the service record, hence, the present dispute relates to the terms of employment for the period she was in service of the respondent. Therefore, I hold that the present dispute is not barred on account of the fact that the petitioner ceased to be an employee after her retirement and as such it cannot be said that the petition is not maintainable as contended by the learned counsel for the respondent. Accordingly, this issue is decided in favour of the petitioner and against the respondent.

Relief :

As a sequel to my above discussion and findings on issues No.1 to 3, the claim of the petitioner fails and is hereby dismissed with the result the reference is answered in favour of the respondent and against the petitioner. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 20th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-*Labour Court, Shimla.*

IN THE COURT OF SUSHIL KUKREJA, PRES IDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-**LABOUR COURT, SHIMLA**

Ref. No. 83 of 2015

Instituted on 1-12-2015

Decided on 7-8-2018

Jai Singh s/o Shri Mithun Lal, r/o Village Nalikilod (Dharjja), P.O. Oachghat, Tehsil and District Solan, H.P. . .*Petitioner*.

Vs.

1. The Administrator Bal Bharti Public School and activity centre, Gladi-Dhank, P.O. Oachghat Tehsil and District Solan, Himachal Pradesh.

2. The Principal, Bal Bharti Public School, Sir Ganga Ram Hospital Marg, New Delhi-110060. . .*Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C. Bhardwaj, AR.
For respondents : Ms. Anshu Kala, Advocate *vice* Shri Kartik Kumar, Advocate.

AWARD

The following reference has been received from appropriate government by this court for adjudication:

> **"Wheter termination of the services of Shri Jai Singh s/o Shri Mithun Lal, r/o Village Nalikilod (Dharjja), P.O. Oachghat, Tehsil & District Solan, H.P. employed as Security Guard, by the (i) The Administrator, Bal Bharti Public School Gladi Dhank, P.O. Oachghat, Tehsil & District Solan, H.P. (ii) The Principal, Bal Bharti Public School, Sir Ganga Ram Hospital Marg, New Delhi-110060 *w.e.f.* 10-03-2014 without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, to what relief of reinstatement, back wages, compensation, seniority and other service benefits the above aggrieved workman is entitled to from the above school management?"**

2. Briefly, the case of the petitioner is that at the first instance he was engaged during the month of March 2010 on the construction work and thereafter he was employed as Security Guard during the month of March 2011 on permanent basis and remained continued till his illegal termination from service on 26-3-2013 by the administrator and thereafter the petitioner raised demand notice against his termination on 30-6-2013 upon which conciliation proceedings were held on 15.7.2013 wherein the respondents had assured the petitioner for his reengagement but he was not re-engaged as security guard and he was deployed on construction work and thereafter *w.e.f.* 10-3-2014 the respondents had again terminated his services without any cogent reasons and justifications and that too without any notice, retrenchment compensation and without the compliance of section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as to Act). It is further stated that the petitioner had completed 240 days in every calendar year and also preceding to his termination, hence, his services are continuous for the purpose of section 25-B of the Act and

even before terminating the services of the petitioner he was never served with any show cause notice or chargesheet and further no enquiry was ever held in accordance with the law of natural justice. It is further stated that the services of junior workmen in the same establishment were retained by the respondent while terminating the service of a senior workman in violation of sections 25-G and 25-H of the Act. Against this back-drop it has been prayed that the respondents be directed to reinstate the petitioner in employment since the date of his illegal termination *i.e* 10-3-2014 with full backwages, seniority and other service benefits.

3. By filing reply, the respondent No.1 contested the claim of the petitioner wherein preliminary objections have been taken that there was no relationship of master and servant between the petitioner and respondent No.1, that the respondent No.1 is not an industry, that no cause of action has ever arisen in favour of the petitioner, that the petitioner misrepresented the facts. On merits, it has been asserted that the petitioner had worked with Bal Bharti Activity Centre which is a separate and distinct legal entity, hence, the question of termination of the petitioner by respondent No.1 does not arise and even the services of the petitioner were utilized by Bal Bharti Activity Centre intermittently in the exigencies of the work and he was not in their continuous employment. It is further asserted that the respondent No.1 was informed by Bal Bharti Activity Centre that the petitioner had stopped reporting for work and had stared some vocation and his services were never terminated. The respondent No.1 prayed for the dismissal of the claim petition.

4. By filing separate reply the respondent No. 2 contested the claim wherein preliminary objections have been taken that the order of reference in incompetent and had in law and this Court has no jurisdiction qua respondent No. 2, that there was no relationship of master and servant between petitioner and respondent No. 2 *etc.* On merits it has been asserted that the respondent No. 2 had not employed any person either directly or through any agency at Solan and the petitioner was never in the employment of respondent No. 2 at any point of time and as such the question of termination of his service by respondent No. 2 did not arise. The respondents No. 2 prayed for the dismissal of the claim petition.

5. By filing rejoinder, the petitioner reaffirmed his allegations by denying those of the respondents.

6. On the pleadings of the parties, the following issues were framed by this Court on 29-11-2016 :—

(1) Whether the termination of the services of the petitioner by the respondents *w.e.f.* 10-3-2014 without complying with the provisions of Industrial Disputes Act, 1947 is illegal and unjustified as alleged? . .*OPP.*

(2) If issue No.1 is proved in affirmative, to what relief the petitioner is entitled to?. .*OPP.*

(3) Whether there is no relationship of master and servant between the petitioner and respondents as alleged? . .*OPR.*

(4) Whether there exists no cause of action against respondents as alleged? . .*OPR.*

(5) Relief.

7. I have heard the AR for the petitioner and learned counsel for the respondents and also gone through the record of the case carefully.

8. For the reasons to be recorded hereinafter while discussing issues for determination my findings on the aforesaid issues are as under :—

Issue No. 1 : Yes

Issue No. 2 : Entitled for reinstatement with seniority and continuity but without back wages.

Issue No. 3 : No

Issue No. 4 : No

Relief : Reference answered in favour of the petitioner and against the respondents per operative part of award.

Reasons for findings

Issues Nos. 1, 3 & 4 :

9. Being interlinked and correlated all these issues are taken up together for discussion and decision.

10. The AR for the petitioner contended that the petitioner had completed 240 days in each calendar year and his services had been terminated by the respondents illegally without complying with the provisions of section 25-F of the Act. He also contended the juniors to the petitioner are still working with the respondents and fresh hands have been engaged in violation of the provisions of sections 25-G & 25-H of the Act.

11. On the other hand, the learned counsel for the respondents contended that the petitioner was never in the employment of respondents at any point of time and as such the question of termination of his service does not arise at all.

12. To prove his case, the petitioner stepped into the witness box as PW-1 and deposed that initially he was engaged in the month of March 2010 on construction work and thereafter during the month of March 2011 he was employed as security guard on permanent basis but his services were terminated on 26-3-2013 by the administrator of the school and activity centre and then he raised the demand notice and conciliation proceedings were held on 15-7-2013 and his services were re-instated but he was not posted as security guard and deployed on construction work and his services were again terminated on 10-3-2014 without issuing any notice or any compensation. He further stated that he had completed 240 days in every calendar year and also in preceding 12 months. He also stated that new security guard was employed after his termination and Bal Bharti Public School and Bal Bharti Active Centre is one and the same establishment. In cross-examination, he admitted that letter Ex. RX has been signed by him at point A encircled in red. He denied that he was not the employee of Bal Bharti Public School and he was employee of Bal Bharti Activity Centre. He admitted that letter Ex. RX-1 has also been signed by him at point A. He further denied that he was not the employee of respondents No.1 & 2. He also denied that he was never terminated by the respondents.

13. On the other hand respondent No.1 examined one Ms. Raksha, senior teacher-*cum*-coordinator of respondent No.1 school as RW-1 who tendered in evidence her affidavit Ex. RW-1/A wherein she reiterated almost all the averments as made in the reply. She also tendered in evidence authority letter Ex. RW-1/B, copy of attendance register *w.e.f.* Feb. 2012 to May, 2014

Ex. RW-1/C and salary statement of all the employees of Bal Bharti Public School Ex. RW-1/D. In cross-examination, she denied that the activity centre is being run in the school building. She further denied that the non-teaching staff of activity centre and school is the same. She denied that in the year 2012 the work of peon/chowkidar was being taken from the petitioner. She also denied that she is the co-ordinator of activity centre. She denied that the petitioner was working in the activity centre as well as in the school.

14. On the other hand, the respondent No.2 examined one Shri Akhilesh, Lab. Attendant, as RW-2 who tendered in evidence his affidavit Ex. RW-2/A wherein he reiterated almost all the averments as made in the reply. He also tendered in evidence authority letter Ex. RW-1/B. In cross-examination, he denied that the respondent No. 2 management is running various schools throughout India. He further denied that the managing committee of Bal Bharti School at Solan and Delhi is the same.

15. I have closely scrutinized the entire evidence on record of the case and after the closure scrutiny thereof, the first question which arises for consideration before this Court is as to whether there is no relationship of master and servant between the petitioner and respondents. The case of the petitioner is that he was engaged at the first instance during the month of March 2010 on construction work and thereafter he was engaged as security guard during the month of March 2011 but his services were terminated on 26-3-2013 by the Administrator of the School and Activity Centre but after raising the demand notice, the conciliation proceedings were held on 15-7-2013 and he was reinstated in service, however, he was not engaged as security guard but was engaged on construction work and thereafter again his services were terminated on 10-3-2014. On the other hand the case of the respondents is that the petitioner was never employed by them, hence, the question of termination of his services did not arise. In the reply of respondent No.1 it has been averred that the petitioner was the employee of Bal Bharti Activity Centre which a separate and distinct entity. Therefore, the burden was upon the respondent No. 1 to prove by leading cogent and satisfactory evidence on record that Bal Bharti Activity Centre is a separate and distinct entity. However, except for the bald statement of RW-1, there is no other evidence on record to suggest that Bal Bharti Activity Centre is a separate and distinct legal entity. The respondent No. 1 was under an obligation to prove by placing on record documentary evidence in order to show that Bal Bharti Activity Centre is separate and distinct entity. However, no document has been placed on record to this effect by the respondent No.1. RW-1 admitted in cross-examination that the registration of the School and Activity Centre is with the Child Education Society but she could not produce the registration certificate before this Court. In the absence of any other satisfactory on record no benefit can be derived by respondent No.1 from the attendance register Ex. RW-1/C and salary statement Ex. RW-1/D. The respondent No. 2 Principal did not appear himself in the witness box and he had only authorized the Lab-Attendant to depose before this Court who appeared in the witness box as RW-2. The cross-examination of RW-2 shows that he is not aware about the Rules and Regulations of the Managing Committee. He even is not aware as to whether there is an Activity Centre at Bal Bharti School Solan. He is also not aware about the financial control of Bal Bharti School. From the cross-examination of RW-2 it is quite clear that the RW-2 is not aware about the management and affairs of the respondents. As observed earlier, since the principal has failed to appear in the witness box, therefore, an adverse inference has to be drawn against respondent No. 2. It is a settled law that obligation to lead evidence to establish an allegation made by a party is upon the party making the allegation. The test would be as to who would fail if no evidence is led. The party making the allegation and seeking the redressal must seek an opportunity to lead evidence. However, the respondents have failed to produce any concrete material before this Court in order to substantiate their allegation that there is no master and servant relationship between the petitioner and respondents and that Bal Bharti Activity Centre is a different and separate legal entity. Hence, in the absence of any cogent and satisfactory evidence on record it cannot be said that the petitioner was not the employee of respondents.

16. From the perusal of record, it is clear that the petitioner was engaged by the respondents during the month of March 2010 on construction work and *w.e.f.* March 2011 he was engaged as security guard and he worked as such till 26-3-2013 and thereafter he was terminated from service and after conciliation proceedings he was reinstated and deployed on construction work and had worked till 10-3-2014 when his services were again terminated. Therefore, it is clear that the petitioner had completed more than 240 days in twelve calendar months preceding his termination. It is further clear from the record that neither any notice as prescribed under section 25-F of the Act was served upon the petitioner nor he was paid compensation in lieu thereof. Therefore, before terminating the services of the petitioner, it was incumbent upon the respondents to have complied with the provisions of section 25-F of the Act which lay down certain conditions precedent to the retrenchment of a workman (workmen) and requires the employer to comply with those conditions as per clauses (a) to (c) which are mandatory in nature. However, in the present case, the perusal of the record shows that the respondents have failed to comply with the provisions of section 25-F of the Act. **In (2015) 4 SCC 544, Mackinnon Mackenzie and Company Ltd.,** Vs. **Mackinnon Employees Union**, the Hon'ble Apex Court has held as under:

> "34. ……**The Industrial Court after examining the facts and evidence on record has rightly answered the question of breach of Section 25F clause (b) in the negative since no evidence has been produced by the respondent-Union to prove the same and further no calculation is brought to our notice as to the amount received by way of retrenchment compensation and also the actual amount sought to have been paid to the retrenched workmen. Further, with regard to the provision of Section 25F clause (c), the appellant-Company has not been able to produce cogent evidence that notice in the prescribed manner has been served by it to the State Government prior to the retrenchment of the concerned workmen. Therefore, we have to hold that the appellant-Company has not complied with the conditions precedent to retrenchment as per Section 25F clauses (a) and (c) of the I.D. Act which are mandatory in law."**

17. In the present case also as observed aforesaid, the respondents have failed to comply with the provisions of section 25-F of the Act before terminating the services of the petitioner. Hence, In view of the law laid down by the Hon'ble Supreme Court (*supra*) and my foregoing observations, I have no hesitation in holding that the termination of the services of the petitioner *w.e.f.* 10-3-2014 by the respondents without complying with the provisions of section 25-F of the Act, is illegal and unjustified. Accordingly, all these issues are decided in favour of the petitioner and against the respondents.

Issue No. 2 :

18. Since, I have held under issue No.1 above that the termination of the services of the petitioner by the respondents *w.e.f.* 10.3.2014 is illegal and unjustified, hence, the petitioner is held entitled to reinstatement in service with seniority and continuity.

19. Now, the question which arises for consideration, before this Court is as to whether the petitioner is entitled to full back wages as contended by the AR for the petitioner. In **(2009) 1 SCC 20, Kanpur Electricity Supply Company Limited** Vs. **Shamim Mirza,** the Hon'ble Supreme Court has held that once the order of termination of services of an employee is set-aside, ordinarily, the relief of reinstatement is available to him. However, the entitlement of an employee to get reinstated does not necessarily result in payment of full or partial backwages, which is independent of reinstatement. It has further been held by the **Hon'ble Supreme Court in 2010 (1) SLJ S.C 70, M/s Ritu Marbals** Vs. **Prabhakant Shukla** that full back wages cannot be granted mechanically, upon an order of termination be declared illegal. It is further held that reinstatement must not be accompanied by payment of full back wages even for the period when the workman remained out of service and contributed little or nothing to the Industry.

20. Moreover, the petitioner was under an obligation to prove by leading cogent evidence that he was not gainfully employed after the dismissal of his services. The initial burden is on the workman/employee to show that he was not gainfully employed as held by the **Hon'ble Apex Court in (2005) 2 Supreme Court Cases 363 titled as Kendriya Vidyalaya Sangathan and another** Vs. **S.C Sharma** that :

> "16……..When, the question of determining the entitlement of a person to back-wages is concerned, the employee has to show that he was not gainfully employed. The initial burden is on him. After and if he places materials in that regard, the employer can bring on record materials to rebut the claim……."

21. In the present case except for the bald statement of petitioner, there is no satisfactory evidence on record to suggest that the petitioner was not gainfully employed after his termination. The petitioner has failed to discharge his burden by placing any concrete material on record that he was not gainfully employed after his termination. Therefore, in view of the entire evidence, on record, coupled with the rulings (*supra*), I have no hesitation in holding that the petitioner is not entitled to any back-wages. Accordingly, issue No. 2 is partly decided in favour of the petitioner and against the respondents.

Relief :

As a sequel to my above discussion and findings on issues No.1 to 4, the claim of the petitioner succeeds and is hereby partly allowed and the petitioner is ordered to be reinstated in service forthwith with seniority and continuity. However the petitioner is not entitled to back wages. The reference stands answered in favour of the petitioner and against the respondents. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced in the open Court today on this 7th day of August, 2018.

Sd/-
(SUSHIL KUKREJA)
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA-171001

NOTIFICATION

Shimla, the 18*th January,* 2019

No. HHC/Admn.6 (23)/74-XVI.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H. P. Financial Rules, 2009 has been pleased to declare Civil Judge-*cum*-JMIC, Dalhousie, H. P. as Drawing and Disbursing Officer, in respect of the Courts of District and Sessions Judge, Chamba, Additional District and Sessions Judge, Chamba, Senior Civil Judge-*cum*-CJM, Chamba and Civil Judge-*cum*-JMIC, Chamba and also the Controlling Officer for the purpose of salary, T. A. *etc*. in respect of establishments attached to the aforesaid Courts *w.e.f.* 4-2-2019 to 16-2-2019.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA-171001

NOTIFICATION

Shimla, the 18*th January,* 2019

No. HHC/Admn.6 (23)/74-XVI.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H. P. Financial Rules, 2009 has been pleased to declare Sr. Civil Judge-*cum*-CJM, L&S at Kullu, H. P. as Drawing and Disbursing Officer, in respect of the Courts of District and Sessions Judge, Kullu & Additional District and Sessions Judge, Kullu and also the Controlling Officer for the purpose of salary, T. A. *etc*. in respect of establishments attached to the aforesaid Courts *w.e.f.* 27-1-2019 to 2-2-2019.

By order,
Sd/-
Registrar General.

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HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 18th January, 2019

No. HHC/Admn.6 (23)/74-XVI.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Sr. Civil Judge-*cum*-CJM, Kullu, H.P. as Drawing and Disbursing Officer, in respect of the Courts of District and Sessions Judge, Kullu & Additional District and Sessions Judge, Kullu and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishments attached to the aforesaid Courts *w.e.f.* 4-2-2019 to 12-2-2019.

By order,
Sd/
Registrar General.

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HIGH COURT OF HIMACHAL PRADESH, SHIMLA–171001

NOTIFICATION

Shimla, the 15th January, 2019

No. HHC/Admn.6 (23)/74-XVI.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Sr. Civil Judge-*cum*-CJM, Bilaspur, H.P. as Drawing and Disbursing Officer, in respect of the Court of Civil Judge-*cum*-JMIC, Bilaspur, H.P. and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishment attached to the aforesaid Court during earned leave period of Ms. Monika Sombal, Civil Judge-*cum*-JMIC, Bilaspur, H.P. *w.e.f.*

18-2-2019 to 20-3-2019 with permission to prefix winter vacation and Sunday falling *w.e.f.* 3-2-2019 to 17-2-2019 and to suffix Gazetted holiday falling on 21-3-2019 or till she returns from leave.

By order,
Sd/
Registrar General.

आबकारी एवं कराधान विभाग

शुद्धिपत्र

शिमला–2, 2 फरवरी, 2019

संख्याः ई.एक्स.एन.–बी.(1)–3 / 2018.––राजपत्र, हिमाचल प्रदेश में संख्याः ई.एक्स.एन.–एफ.(10)–13 / 2017 तारीख 27 जून, 2017 के तहत पृष्ठ 2830 पर तारीख 29 जून, 2017 को प्रकाशित अधिसूचना में हिमाचल प्रदेश माल और सेवा कर नियम, 2017 के नियम 26 के उप नियम (1) में आए शब्द, "बोर्ड" **के स्थान** पर "आयुक्त" शब्द **पढ़ा** जाए।

आदेश द्वारा,

जगदीश चन्द्र शर्मा,
प्रधान सचिव (आबकारी एव कराधान)।

EXCISE AND TAXATION DEPARTMENT

CORRIGENDUM

Shimla-2, the 2nd February, 2019

No. EXN-B(1)-3/2018.—In the notification No. EXN-F(10)-13/2017, dated the 27th June, 2017, published in the Gazette of Himachal Pradesh on 29th June, 2017, at page No. 2905 in rule sub-rule (1) of Rule 26 of the Himachal Pradesh Goods and Services Tax Rules, 2017, for the word "Board" *read* the word "Commissioner".

2. In the notification No. 10/2017-STATE TAX, dated the 30th June, 2017, published in the Gazette of Himachal Pradesh, *vide* number EXN-F(10)-14/2017, dated the 30th June, 2017, at page No. 3023:

(i) before the words "The grounds of appeal", for the signs and figure "(1)" *read* the sign and figure "(2)"

(ii) before the words "A certified copy of the decision", for the signs and figure "(2)" *read* the figure and sign "(3)".

By order,

JAGDISH CHANDER SHARMA,
Principal Secretary (E&T).

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 16–01–2019

केस नं0 : 07–MT / 19 तारीख पेशी : 18–02–2019

1. राजेश कुमार पुत्र श्री दुर्योधन ठाकुर, निवासी गांव शाहिटा, डाकघर कसलादी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती पूजा ठाकुर पुत्री श्री छपे राम, निवासी गांव वनाशा, डाकघर कसलादी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 16–01–2019 को इस अदालत में प्रार्थना–पत्र मय शपथ पेश किया है कि उन्होंने दिनांक 15–05–2016 को शादी कर ली है और तब से दोनों पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत पीणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 16–01–2019

केस नं0 : 06–MT / 19 तारीख पेशी : 18–02–2019

1. तोत राम पुत्र श्री दुनी चन्द, निवासी गांव मोरज, डाकघर कसलादी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती शीला देवी पुत्री श्री चन्द्रमणी, निवासी गांव छाशनी, डाकघर भ्रैण, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 16–01–2019 को इस अदालत में प्रार्थना–पत्र मय शपथ पेश किया है कि उन्होंने दिनांक 14–02–2015 को शादी कर ली है और तब से दोनों पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत पीणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 19–12–2018

केस नं0 : 05–MT / 19 तारीख पेशी : 18–02–2019

1. सतीश पराशर पुत्र श्री प्रकाश चन्द, निवासी गांव व डाकघर पिपलाआगे, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती मैना शर्मा पुत्री श्री हरनाम सिंह, निवासी गांव टकरेड़, डाकघर बराधा, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 19–12–2018 को इस अदालत में प्रार्थना–पत्र मय शपथ पेश किया है कि उन्होंने दिनांक 30–04–2013 को शादी कर ली है और तब से दोनों पति–पत्नी के

रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत भूईण, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 31–12–2018

केस नं0 : 04–MT / 19 तारीख पेशी : 18–02–2019

1. देवी सिंह पुत्र श्री निधि सिंह, निवासी गांव सीस, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती रूप दासी पुत्री श्री मेहर सिंह, निवासी गांव चलाहा डाकघर शालंग, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 31–12–2018 को इस अदालत में प्रार्थना–पत्र मय शपथ पेश किया है कि उन्होंने दिनांक 21–04–2015 को शादी कर ली है और तब से दोनों पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत ज्येष्ठा, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 22–12–2018

केस नं0 : 03–MT / 19 तारीख पेशी : 18–02–2019

1. रहमत अली पुत्र श्री बरकत अली, निवासी गांव व डाकघर हुरला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती नजमा पुत्री श्री अब्दुल सितार, निवासी गांव फलटनाल, डाकघर बजौरा, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 22–12–2018 को इस अदालत में प्रार्थना–पत्र मय शपथ पेश किया है कि उन्होंने दिनांक 15–12–2016 को शादी कर ली है और तब से दोनों पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत हुरला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 21–12–2018

केस नं0 : 02–MT / 19 तारीख पेशी : 18–02–2019

1. सेस राम पुत्र श्री कर्म दास, निवासी गांव शिल्हा डाकघर बरशैणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

2. श्रीमती चांदनी पुत्री श्री कृष्ण चन्द, निवासी गांव ग्राहण, डाकघर कसोल, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 21–12–2018 को इस अदालत में प्रार्थना–पत्र मय शपथ पेश किया है कि उन्होंने दिनांक 05–05–2017 को शादी कर ली है और तब से दोनों पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण ने अपनी शादी का इन्द्राज सम्बन्धित ग्राम पंचायत बरशैणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में दर्ज नहीं करवाया है।

अतः सर्वसाधारण व आम जनता को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत श्री अनिल कुमार, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नं0 : 02–ME / T / 2019 दिनांक : 18–01–2019

1. श्री पंकज शर्मा पुत्र श्री विजय कुमार शर्मा, मकान नं0 25, वार्ड नं0 1, अखाड़ा बाजार, तहसील व जिला कुल्लू, हि0 प्र0।

2. श्रीमती भुवनेश्वरी शर्मा पुत्री श्री नूप राम शर्मा, गांव चौंग, डाकघर जलुग्रां, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 प्रार्थीगण।

बनाम

आम जनता .. प्रतिवादीगण।

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 24–11–2018 को इस अदालत में प्रार्थना–पत्र पेश किया है कि उन्होंने दिनांक 01–12–2016 को हिन्दू रीति रिवाज के अनुसार स्थान गांव चौंग में शादी कर ली है और तब से पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण द्वारा अपनी शादी का इन्द्राज सम्बन्धित पंचायत में नहीं करवाया है।

अतः सर्वसाधारण को व सगे–सम्बन्धियों को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना उजर / एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 18–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
कुल्लू, जिला कुल्लू, हि0 प्र0।

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ब अदालत श्री अनिल कुमार, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नं0 : 03–ME / T / 2019 दिनांक : 18–01–2019

1. श्री किरण प्रकाश पुत्र श्री पुने राम, गांव परभी, डाकघर शिरड, तहसील व जिला कुल्लू, हि0 प्र0।

2. श्रीमती शीला पुत्री श्री बेली राम, गांव डमचीन, डाकघर फोजल, तहसील व जिला कुल्लू, हि0 प्र0 .. प्रार्थीगण।

बनाम

आम जनता .. प्रतिवादीगण।

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 16–01–2019 को इस अदालत में प्रार्थना–पत्र पेश किया है कि उन्होंने दिनांक 10–11–2013 को हिन्दू रीति रिवाज के अनुसार स्थान गंव डमचीन में शादी कर ली है और तब से पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण द्वारा अपनी शादी का इन्द्राज सम्बन्धित पंचायत में नहीं करवाया है।

अतः सर्वसाधारण को व सगे–सम्बन्धियों को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना उजर / एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 18–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
कुल्लू, जिला कुल्लू, हि0 प्र0।

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ब अदालत श्री अनिल कुमार, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नं0 : 04–ME / T / 2019 दिनांक : 18–01–2019

1. श्री समीर गुप्ता पुत्र श्री जोगिन्द्र पाल गुप्ता, गांव खारकी बेहड़, डाकघर कटराई, तहसील व जिला कुल्लू, हि0 प्र0।

2. श्रीमती प्रतिभा पुत्री श्री संतोष, गांव व डाकघर कराड़सू, तहसील व जिला कुल्लू, हि0 प्र0

प्रार्थीगण।

बनाम

आम जनता प्रतिवादीगण।

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 16–01–2019 को इस अदालत में प्रार्थना–पत्र पेश किया है कि उन्होंने दिनांक 07–11–2016 को हिन्दू रीति रिवाज के अनुसार स्थान कराड़सू में शादी कर ली है और तब से पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण द्वारा अपनी शादी का इन्द्राज सम्बन्धित पंचायत में नहीं करवाया है।

अतः सर्वसाधारण को व सगे–सम्बन्धियों को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना उजर / एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 18–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
कुल्लू, जिला कुल्लू, हि0 प्र0।

ब अदालत श्री अनिल कुमार, तहसीलदार एवं कार्यकारी दण्डाधिकारी, कुल्लू, जिला कुल्लू, हि0 प्र0

केस नं0 : 05–ME / T / 2019 दिनांक : 18–01–2019

1. श्री तारा चन्द पुत्र श्री भगत राम, निवासी गांव माठी शिल्ह, डाकघर शिरड़, तहसील व जिला कुल्लू, हि0 प्र0।

2. श्रीमती सरस्वती पुत्री श्री सेस राम, निवासी गांव बांशिंग, डाकघर बवेली, तहसील व जिला कुल्लू, हि0 प्र0 .. प्रार्थीगण।

बनाम

आम जनता .. प्रतिवादीगण।

विषय.––प्रार्थना–पत्र जेर धारा 5(4) हि0 प्र0 रजिस्ट्रीकरण नियम 2004 विवाह पंजीकरण बारे।

उपरोक्त मामला में प्रार्थीगण उपरोक्त ने दिनांक 16–01–2019 को इस अदालत में प्रार्थना–पत्र पेश किया है कि उन्होंने दिनांक 03–02–2017 को हिन्दू रीति रिवाज के अनुसार स्थान बांशिंग में शादी कर ली है और तब से पति–पत्नी के रूप में रहते चले आ रहे हैं। परन्तु प्रार्थीगण द्वारा अपनी शादी का इन्द्राज सम्बन्धित पंचायत में नहीं करवाया है।

अतः सर्वसाधारण को व सगे–सम्बन्धियों को इस इश्तहार द्वारा सूचित किया जाता है कि किसी भी व्यक्ति को उपरोक्त प्रार्थीगणों की शादी से सम्बन्धित पंचायत के अभिलेख में दर्ज करने बारे कोई उजर व एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत पेश होकर अपना उजर / एतराज पेश कर सकता है। इसके उपरान्त कोई भी एतराज प्राप्त न होने की सूरत में नियमानुसार शादी दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 18–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
कुल्लू, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

केस नं0 : 02– / BT / 2019 दायर तिथि : 03–11–2018 तारीख पेशी : 18–02–2019

श्री रेवत राम पुत्र श्री गरीब दास, निवासी गांव जलुग्रां, डाकघर जलुग्रां, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री रेवत राम पुत्र श्री गरीब दास, निवासी गांव जलुग्रां, डाकघर जलुग्रां, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 इस कार्यालय में प्रार्थना–पत्र मय शपथ–पत्र दिया गया है कि उसके पुत्र राकेश कुमार का जन्म दिनांक 05–02–2017 को स्थान गांव जलुग्रां, डाकघर जलुग्रां, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में हुआ है परन्तु उसके जन्म की तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत जलुग्रां, डाकघर जलुग्रां, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के अभिलेख में दर्ज न किया है।

अतः इस इश्तहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि किसी व्यक्ति को राकेश कुमार पुत्र श्री रेवत राम जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

केस नं0 : 01 / BT / 2019 तारीख पेशी : 18–02–2019

श्री लुदर चन्द पुत्र श्री टिकम राम पुत्र श्री फतु, निवासी गांव बनाशा, डाकघर कसलादी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री लुदर चन्द पुत्र श्री टिकम राम पुत्र श्री फतु, निवासी गांव बनाशा, डाकघर कसलादी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना–पत्र मय शपथ–पत्र दिया गया है कि उसके पिता स्व0 श्री टिकम राम पुत्र फतु की मृत्यु दिनांक 24–08–2016 को स्थान गांव बनाशा, डाकघर कसलादी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में हुई है परन्तु उनकी मुत्यु की तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत पीणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के अभिलेख में दर्ज न किया है।

अतः इस इश्तहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि किसी व्यक्ति को स्व0 श्री टिकम राम पुत्र फतु की मृत्यु तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार मृत्यु तिथि दर्ज करवाने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

केस नं0 : 01 / BT / 2019 तारीख पेशी : 18–02–2019

श्री खीम चन्द पुत्र श्री हेतु राम, निवासी गांव मनीहार, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0।

बनाम

सर्वसाधारण एवं आम जनता

विषय.––प्रार्थना–पत्र अधिनियम धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री खीम चन्द पुत्र श्री हेतु राम, निवासी गांव मनीहार, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 ने इस कार्यालय में प्रार्थना–पत्र मय शपथ–पत्र दिया गया है कि उसकी पुत्री नीलम का जन्म दिनांक 29–11–2016 को स्थान गांव मनीहार, डाकघर ठेला, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 में हुआ है परन्तु उसके जन्म की तिथि का इन्द्राज किसी कारणवश ग्राम पंचायत पारली, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के अभिलेख में दर्ज न किया है।

अतः इस इश्तहार हजा द्वारा सर्वसाधारण को सूचित किया जाता है कि किसी व्यक्ति को नीलम पुत्री श्री खेम चन्द की जन्म तिथि दर्ज करवाने बारे कोई आपत्ति हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार जन्म तिथि दर्ज करवाने के आदेश सम्बन्धित ग्राम पंचायत को पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 17–12–2018

केस नं0 : 04 / NT / 2018 तारीख पेशी : 18–02–2019

श्री राज कृष्ण पुत्र श्री इन्द्र सिंह, निवासी गांव धाऊणी, डाकघर जलुग्रां, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 .. प्रार्थी।

बनाम

आम जनता .. प्रत्यार्थी।

विषय.––दरख्वास्त बराये कागजात माल में नाम की दुरुस्ती बारे।

श्री राज कृष्ण पुत्र श्री इन्द्र सिंह, निवासी गांव धाऊणी, डाकघर जलुग्रां फाटी चौंग, कोठी चौंग, तहसील भुन्तर, जिला कुल्लू हि0 प्र0 द्वारा दिनांक 17–12–2018 को इस अदालत में प्रार्थना–पत्र पेश किया है। वाक्या फाटी चौंग, कोठी चौंग, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के राजस्व रिकार्ड में प्रार्थी का नाम गलती से राज कृष्ण की जगह राम कृष्ण दर्ज है जबकि ग्राम पंचायत व अन्य रिकार्ड में प्रार्थी का नाम राज कृष्ण है। अब प्रार्थी अराजी हजा के इन्द्राज में अपना नाम राम कृष्ण से दुरुस्त करके राम कृष्ण उर्फ राज कृष्ण पुत्र श्री इन्द्र सिंह दर्ज करना चाहता है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि किसी व्यक्ति को उपरोक्त प्रार्थी के नाम की दुरुस्ती का इन्द्राज करने बारे कोई एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार नाम दुरुस्ती का इन्द्राज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर। हस्ताक्षरित / –
तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी,
तहसीलदार, भुन्तर, जिला कुल्लू, हि0 प्र0।

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ब अदालत तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0

दायर तिथि : 04–10–2018

केस नं0 : 03 / CT / 2018 तारीख पेशी : 18–02–2019

श्री मेहर चन्द पुत्र श्री नोखू राम पुत्र श्री डुंगचुग, निवासी गांव शुरड़, डाकघर खोखन, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 .. प्रार्थी।

बनाम

आम जनता .. प्रत्यार्थी।

विषय.––दरख्वास्त बराये कागजात माल में जाति की दुरुस्ती बारे।

श्री मेहर चन्द पुत्र श्री नोखू राम पुत्र श्री डुंगचुग, निवासी गांव शुरड़, डाकघर खोखन, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 द्वारा दिनांक 04–10–2018 को इस अदालत में प्रार्थना–पत्र पेश किया है उसकी जाति वाक्या फाटी शमशी, कोठी खोखन, तहसील भुन्तर, जिला कुल्लू, हि0 प्र0 के राजस्व रिकार्ड में अन्य दर्ज है जबकि नकल शजरा नस्ब फाटी हलाण–I वर्ष 1989–90 तहसील व जिला कुल्लू, पटवारी भू–व्यवस्था महाल राघड़ी, भू–व्यवस्था नायब तहसीलदार वृत्त कुल्लू, हि0 प्र0 के अनुसार प्रार्थी कोली जाति से सम्बन्ध रखता है। अब प्रार्थी अराजी हजा के इन्द्राज में अपनी जाति अन्य से दुरुस्त करके कोली दर्ज करना चाहता है।

अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि किसी व्यक्ति को उपरोक्त प्रार्थी की जाति दुरुस्ती का इन्द्राज करने बारे कोई एतराज हो तो वह दिनांक 18–02–2019 को सुबह 10.00 बजे या इससे पूर्व असालतन या वकालतन हाजिर अदालत आकर अपना एतराज दर्ज करवा सकता है। इसके उपरान्त कोई भी एतराज समायत न होगा तथा नियमानुसार जाति दुरुस्ती का इन्द्राज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 17–01–2019 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित / –
तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी,
तहसीलदार, भुन्तर, जिला कुल्लू, हि0 प्र0।

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In the Court of Mr. Raman Garsanghi (H.A.S.), Special Marriage Officer-cum-Sub-Divisional Magistrate, Manali, District Kullu, H.P.

Mr. Paljor son of Sh. Lhakyab resident of Gachan, Thekhokling Buddhist Monastery, House No. 43 Manali, P.O. and Tehsil Manali, Distt. Kullu, H.P. (INDIA).

Mrs. Tsering daughter of Sh. Marchung (presently wife of Sh. Paljor) resident of Gachan, Thekhokling Buddhist, House No. 43 Manali, P.O. and Tehsil Manali, Distt. Kullu, H.P. (INDIA).

Versus

General Public

An application for registration of marriage under Special Marriage Act, 1954.

Whereas Mr. Paljor son of Sh. Lhakyab resident of Gachan, Thekhokling Buddhist Monastery, House No. 43, Manali, P.O. and Tehsil Manali, Distt. Kullu, H.P. (INDIA). Mrs. Tsering daughter of Sh. Marchung (presently wife of Sh. Paljor) resident of Gachan, Thekhokling Buddhist, monastery House No. 43 Manali, P.O. and Tehsil Manali, Distt. Kullu, H.P. (INDIA) has presented an application on 16-01-2019 in this court for the registration of the marriage under Special Marriage Act, 1954. Hence this proclamation is hereby issued for the information of general public that if any person have any objection for the registration of the above marriage can appear in this court on 15-02-2019 at Manali to object registration of above marriage personally or through an authorized agent failing which this marriage will be registered under the Act, 1954 accordingly.

Given under my hand and seal of this court on 16th day of January, 2019.

Seal.

RAMAN GARSANGHI (HAS),
Special Marriage Officer-cum-*Sub-Divisional Magistrate,*
Manali, District Kullu (H.P.).

नियन्त्रक, मुद्रण तथा लेखन सामग्री, हिमाचल प्रदेश, शिमला–5 द्वारा मुद्रित तथा प्रकाशित
इलेक्ट्रॉनिक हस्ताक्षरित राजपत्र, वैबसाइट http://rajpatrahimachal.nic.in पर उपलब्ध है एवम् ऑनलाइन सत्यापित किया जा सकता है